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The Nation.

July 19/26, 1986 $1.25; U.K. 65p

EDITORIAL

THE NEW FILIBUSTERS

The "smile on the face of our Statue of Liberty" that President Reagan detected after the House vote for aid to the Nicaraguan *contras* looks more like the grin of a tiger about to devour its prey. Accounts from the *contras*' camps in Honduras suggest that preparations are already under way—even before final Congressional action on the $100 million military aid package—for a vastly escalated conflict in Central America, supervised and supplied at every stage by the Reagan Administration.

Reagan's intervention in Nicaragua adds another chapter to the encyclopedia of American imperial adventure in that country. The Tennessean William Walker and his filibusters landed to take control in 1855. From 1894 to 1899 the U.S. Marines intervened on five separate occasions to protect American interests, which were then defined as the sugar, banana, lumber and coffee trades. In 1909 the Marines arrived again, this time to oust liberal President José Santos Zelaya, and returned in 1912. They left after thirteen years, but returned in 1927 to conduct an open "secret war" against independence forces—condemned as Bolsheviks—until rebel leader Augusto Sandino was murdered and the first Somoza *caudillo* installed. American power was supreme and American interests were secure until the Sandinistas overthrew the last Somoza in 1979. No one doubted the Hearst papers' judgment that "dollars without cannons behind them are feeble things, like flabby jellyfish."

Reagan, his Republicans and the sizable caucus of "defense Democrats" who have joined this latest intervention prattle about restoring democracy, protecting religion and saving the hemisphere from communism. But they are no nobler than the shabby filibusters who sought, and failed, to subjugate Nicaragua for their own greed.

AUTHENTIC GANGSTERS
Christopher Hitchens

TORT REFORM
Stephen Gillers

BUSINESS AND THE FREEZE
Thomas Ferguson
Joel Rogers

WORKING-CLASS HISTORY
David Montgomery

DIEGO RIVERA
Arthur C. Danto

NO SENSE OF DECENCY

WHY ROY COHN WAS DISBARRED

WILLIAM A. REUBEN WITH ALEXANDER COCKBURN

When the transcripts of Richard Nixon's White House conversations were first published, not just a person but an era was transformed, for there in the paranoid and obscene meditations was the private truth of a public man. The corrupt audacity of the deeds that got Roy Cohn disbarred on June 23 is of the sort that shines most strongly in its details, and with these details, as with Nixon's transcripts, we have a new prism through which to review the past. The man who heaved a senile millionaire up in bed in 1975, put a pen in his palsied hand and urged him to the rudiments of a signature is the same man who, a generation earlier, helped send the Rosenbergs to their death. The young man who stood at Senator Joseph McCarthy's side grew into the trickster who plundered the escrow account of the Pied Piper Yacht Charters Corporation.

Polite history disdains the muck of detail. Nixon has outlived the shame of his transcripts. In this case, even as the transcripts of Cohn's misdeeds, made public last November, lay readily available for inspection, Cohn rose to greater heights of political influence in the New York of Edward Koch and the Washington of Ronald Reagan. Yet until the release of the unanimous decision of a five-judge panel of the Appellate Division of New York State Supreme Court disbarring him by reason of unethical and unprofessional conduct, no one in the press or from among those who sprang to Cohn's defense did much more than skim the surface of the charges against him, although Michael Gentile, and his assistants Sarah McShea and Howard

(*Continued on Page 48*)

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LETTERS.

DOWNTOWN MORAL AGENDAS

New York City

It was with shocked amusement that we at the *Eye* read *The Nation*'s article of May 10 titled "Let Them Eat Attitude," by Maureen Mullarkey (a nom de plume?), in which the author blithely lumps downtown New York's four monthlies and one quarterly into a murky heap under the label "dandyism."

Although I don't presume to speak for all of these journals, a word is in order concerning the very central and (don't you think?) determinant question of financing. For the record, *NY Talk* and *Details* are financed and controlled by large, powerful publishing concerns; *East Village Eye* and *Paper* are entirely self-financed; and *Bomb*, though it receives some government funding, is of necessity largely self-supporting. But all five are under the intense pressure of the marketplace to pay their respective ways. Alas, we are tainted by capitalism, unlike *The Nation*, which we understand is subsidized in great part by the personal fortune of publisher Hamilton Fish 3d and by a small group of very comfortable yet liberal-minded patrons.

How we downtowners pay our bills is evident to anyone who reads these publications. I enclose several back issues of the *Eye* for Mullarkey's careful scrutiny, as I doubt she has done her homework.

Without taking issue with the substance of the other monthlies, let me point out that we are not all alike. It's no accident that roughly half of our advertising revenue comes from cultural venues aside from our beloved nightclubs, boutiques and restaurants, and that another large chunk is provided by paying readers. The *Eye* has consistently focused on independent culture in all its forms, even food and clothing, examining it aesthetically and in a societal context.

When this falls in the area of politics, as with the interview with Brink's robbery convict Susan Rothenberg ("Bombing for a Better America," March 1986), which Mullarkey found so ga-ga, we often let the subjects speak for themselves. Last year we broadened out with interviews with celebrity candidates Bellamy, Koch and Farrell. We also run well-researched news stories. In the past year the *Eye* has run thirty-one news reports and features on real estate, drug abuse, race relations, sex, electoral politics and government surveillance. This is in addition to many editorial and Op-Ed pieces on these and other topics. And this we do without subsidy from corporations, government agencies or inherited largesse, but with the support of New York's creative community, including readers, advertisers and a great many volunteer workers.

Finally, it's odd that Mullarkey, a painter herself, is so eager to insist that artists are "not priests or seers but skilled workers like any others, morally indistinguishable from their neighbors." She apparently feels that communicators have no added responsibility to take a moral position. Perhaps that is why she is unable to distinguish between the various moral agendas of downtown New York's journals.

Leonard Abrams
Editor and Publisher
East Village Eye

MULLARKEY REPLIES

New York City

Leonard Abrams is abristle because I dispensed with the fiction that there is a "moral agenda" afloat in the bloated mass of hype that constitutes the *Eye*. Frankly, he ought to be grateful that I stuck to the rules of *politesse* and resisted lumping the *Eye* and its cousins under the label of "trivia" or "trash."

His real gripe is with the fact that I actually read his paper. As Abrams knows, it is not intended to be read. It is meant to be flashed, like a phony credential at a peephole. *East Village EYE*, get it? The histrionic graphics convey quite thoroughly what the paper is about. The unrelenting retinal stimulation is supposed to confound the cortex so that dazed readers won't notice the poverty of content.

The *Eye* managed thirty-one news reports in the course of a year? My neighborhood paper does as well each week. In addition, it has the grace and good sense not to reduce living issues to show biz. Do the *Eye*'s articles speak for themselves? You bet they do. And what they have to say is no compliment to the moral sensibilities of slick "communicators" like Abrams. Snappy titles fixed to vapid or facetious reportage served up for its box-office value are hardly convincing alternatives to compassionate engagement with issues or serious concern for the commonweal.

Agreed, the *Eye* is tainted—but who said anything about capitalism? I had stated that these papers were businesses, an obvious point that Abrams's letter verifies. I have no argument with business. I do, however, take exception to bald pretension and manipulation of the ideal of public service. Does Abrams? Would he like to say more about those "great many volunteer workers"? Sounds interesting.

I dislike Abrams's distortions of my comments that artists are not "exemplary sufferers" (Susan Sontag's apt phrase) but ordinary people trying to get by as best they can. The extraordinary self-regard of art exaggerates its role in the real world. Any society that permits its conscience to repose in the arts might as well abdicate conscience altogether. The mystification of art and artists does nothing more than allow Abrams and company to cash in on the difference between posture and substance.

At 120 years, *The Nation* has been around a lot longer than Hamilton Fish 3d. Besides, it makes no false claims for itself, and it never confuses its ads with its editorials. Too bad the same can't be said of the downtown presses.

Maureen Mullarkey

CORPORATE PEACE

Honiara, Solomon Islands

I would like to add a belated footnote to Harris Wofford's excellent article of last year on the Peace Corps ["The Peace Corps at 25," Nov. 30]. *Nation* readers may now be interested to know that, in conjunction with the Peace Corps's twenty-fifth anniversary celebrations currently taking place, corporations like Mobil Oil and Coca-Cola have offered to sponsor and promote the Peace Corps image in the United States. As a Peace Corps volunteer I am greatly disturbed by the idea of such corporations, whose behavior in the Third World is both infamous and contemptible, exploiting the service and commitment of myself and other volunteers in order to boost and promote their own public image by association. Are we to believe that the values and vision of the Peace Corps are the same as those of Mobil, Alumax and the Wells Fargo Bank? It's as if Union Carbide were to sponsor promotional spots for Mother Teresa.

Social responsibility is a virtue to be earned, not bought. This odious method of public relations involves just the kind of rank hypocrisy that one would expect from a Peace Corps under Reagan. The Peace Corps, or rather the inherent value of what many Peace Corps volunteers are doing, speaks for itself. Corporate "partnership" only sullies the Peace Corps's image and perverts its identity.

Michael Lafreniere

MALE BIAS

New York City

The male bias of *The Nation* never ceases to astound me. In his May 17 review of *Free Spaces: The Sources of Democratic Change in America*, by Sara M. Evans and Harry C. Boyte (in that order), Michael Kazin devoted his introduction to telling his readers who Boyte is. Lucky for her, Sara Evans is "his wife"—at least that seems to be Kazin's perspective.

Evans is a well-known scholar and activist, often in women's circles. Kazin should familiarize himself with Evans's powerful book, practically a standard in women's history courses, *Personal Politics: The Roots of Women's Liberation in the Civil Rights Movement and the New Left* (Knopf, 1979) and maybe even ask why her name, out of alphabetical order, preceded Boyte's. But, then again, that would take an examination of "who's important to whom"—for both Kazin and *The Nation*'s editors.

Marion Kaplan

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EDITORIALS.

The Final Days

The last days of the Burger Court seemed to summarize the course of its sixteen-year tenure: contentious, contradictory, at once reckless and cautious, deeply divided and always unpredictable. Both its recent past as a guarantor of civil rights and personal liberties and its likely future as an advocate for state authority were contained in its present. If this Supreme Court did not direct public policy according to a shared vision of social progress, as its predecessor did, it accurately reflected the dilemmas of American society in the final quarter of the century: the unresolved arguments, the unallayed fears, the unfinished business. We cannot know now for certain, but it appears that we have passed through a period of transition rather than a moment of movement.

In its final decisions before reorganization under a new Chief Justice, the Court embroiled itself in political controversy to a dizzying degree. It threw out important sections of Gramm-Rudman-Hollings; it poked into local gerrymandering practices; and it checked out compliance with the Voting Rights Act and its most recent amendments. It narrowly upheld affirmative action plans in New York and Cleveland, and by implication rejected the Reagan Administration's theory that such strategies for reversing discriminatory be-

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havior are themselves examples of "reverse discrimination."

But what got the biggest headlines and may well come to symbolize the final phase of the Burger regime was the decision in a case involving a homosexual in Georgia arrested for having sex with a consenting partner in his own bedroom. For three decades the American judicial system, with the Supreme Court at the head, has been extending the right of privacy under the Constitution to include noninjurious consensual behavior previously proscribed because of religious or moralistic scruples. Sexual matters, in particular, have been given a healthy airing out of the puritanical closet. In landmark decisions, courts have struck down laws against contraception, interracial marriage, and have affirmed a woman's right to an abortion.

The 5-to-4 decision in the Georgia "sodomy" case retreated from that progressive history. With the perverse passion of a medieval monk, Justice Byron White insisted that homosexual relations have no better claim on constitutional protection than "adultery, incest and other sexual crimes," or "the possession in the homes of drugs, firearms or stolen goods." Chief Justice Burger caught the Whizzer's pass and brought it over the line, concurring with eighteenth-century authorities that homosexuality is "the infamous crime against nature," an offense of "deeper malignity" than rape and, that old chestnut, "a crime not fit to be named."

The theoretical issue in the Georgia case was essentially the same as that in the Court's 1972 decision on abortion, *Roe v. Wade*. Privacy then was extended to include a woman's reproductive function. This time—perhaps in reaction to the uproar from the religious right wing over *Roe*—a bare majority excluded sexual behavior that is not sanctioned by the Bible from the protection of the Constitution. Justice Harry Blackmun wrote a forceful dissent for the minority, but for the foreseeable future the issue of privacy rights for sexual minorities is closed at the judicial level.

It is perhaps unfair to make sweeping judgments about society from individual decisions of the Supreme Court, especially ones that are decided as narrowly as the Georgia case. But it's clear that the sexual panic that seems to grip America in the 1980s has reached the highest bench. Anyone who doubts the extent of that panic should consider the Court's upholding of the suspension of a high-school student who used sexual innuendo in a speech at an assembly. Social psychologists have a lot of work to do on this bizarre national neurosis. Pornography, abortion, child molestation, incest, fertility, gender, women's rights, sexually transmitted diseases— every topic that touches sexual thought or action has become a public issue. Warren Burger sounds as freaked out as a suburban dad confronted by an androgynous son or a liberated daughter. His reaction is unfortunately typical: retreat to the eighteenth century and a self-serving interpretation of the law. But unlike Dad, Burger is the law. Or was.

The Court did better on race than on sex, possibly because the days of acute racial panic are over, at least for the time being. Chronic racial conflict persists, but it is easier to make sensible statements in this atmosphere than in one of high tension. The Court rather bravely upheld the affirmative action proposition that minorities as a class have suffered from discrimination and that the remedies due them should be awarded to them as a class. Attorney General Meese, who would rather skimp on the remedies, has been holding out for individual awards. Thus, a contractor and a union that discriminate against blacks would be required to hire only that black person who tries and fails to get a job. The next applicant would have to go through the same process, perhaps right up to the Rehnquist Court for relief. Maybe because the issue of racial equality did not arise during the English Reformation, Chief Justice Burger's touchstone era for judicial reference, he voted with the majority on this one. Now it's on to the Constitution's two-hundredth birthday celebration for him, and he may have the opportunity to notice how things have changed in the world since quill was put to parchment.

SUMMER SCHEDULE

With the issue of July 5/12, *The Nation* began the biweekly summer schedule. Weekly publication will resume with the issue of August 30.

Free Namibia

If it's true that the Reagan Administration is deliberately altering its course, if not abruptly changing its direction, on South Africa, this may be the opportune time to move toward independence for neighboring Namibia. The framework for a solution could be the special U.N. conference on Namibia, which opened last week in Vienna with the purpose of mobilizing South Africa's Western trading partners to pressure Pretoria to end its military occupation of the territory. Successive U.N. resolutions, going back twenty years, have called for South Africa's withdrawal, and Security Council Resolution 435, which the United States and other Western nations support, mandates free elections supervised by the international organization. But the South African government continues to flout world demands while it implements a deceptive diplomatic strategy to bolster its repressive colonial policy.

During the past several months, however, several factors in the brutal equation of southern African power have changed. The racial crisis in South Africa has focused attention on the inequities of white minority rule throughout the region, and at the same time it has given Pretoria new reason for cutting the mounting costs of maintaining extended military positions. The United States, which was dragged into the Namibian problem for no good reason beyond South Africa's insistence that it was an arena of East-West conflict, has its own interests in political

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stabilization. In June, President Reagan's emissaries upgraded their contacts with the A.N.C., the principal guerrilla force fighting apartheid. By analogy, the Administration should now be willing to consider talks with Swapo, the widely recognized representative of independent Namibia.

Although the United States should never have taken an initiative in Namibia as part of its cold war campaign, it cannot abandon its role without significant political consequences. Namibia is, in effect, an international territory. South Africa's occupation is illegal according to every vote in the United Nations and every decision of the World Court. The United States has participated at every stage in the international process for Namibia's independence, and it is obliged now to pursue the same course to some reasonable resolution. If diplomatic arm-twisting and economic threats are unavailing, the United States should consider asking the United Nations to take military action: in other words, an armed mission to Namibia to oversee the transition from South African colony to independent democracy.

There is no way for the United States to score the victory against the Soviet Union in southern Africa that Pretoria has long promised. Swapo is not a Kremlin creature, and the Cuban troops in Angola, whom President Reagan sees as a bargaining chip, are on a mission not of imperial conquest but of support and survival. Their tickets home to Havana are held in Pretoria and Washington. If South Africa, with American help, stops manipulating politics in the states bordering it, the Angolan war would end along with the Namibian occupation.

Updates

On July 7 the Supreme Court declined without comment to hear the appeal of the State of Arkansas in the case of James Dean Walker, who was twice convicted of murder [see Amy Singer, "Who's Afraid of Habeas Corpus?" *The Nation*, October 22, 1983, and "Updates," July 20/27, 1985]. Walker was released from prison last July, after the United States Court of Appeals for the Eighth Circuit ruled that his right to due process had been denied because of the trial judge's prejudice and that evidence suppressed by the State of Arkansas raised doubt as to his guilt. Arkansas attempted to save face by appealing to the Supreme Court, thereby stalling the decision on whether to try Walker a third time. In a case that is now more than twenty years old and lacks strong evidence for a conviction, Arkansas should finally admit its loss and let Walker get on with his life.

Alvin Ford has sat on Florida's death row since 1975, when he was convicted of killing a cop while holding up a restaurant. Sane when he committed the crime, he went crazy in prison. Although Florida is a fierce death penalty state, it, like the rest of the country, bars the execution of the insane. But a panel of three psychiatrists who interviewed Ford for thirty minutes concluded that though he was psychotic, he understood why he was to die. In a 5-to-4 ruling last month the Supreme Court rejected their recommendation, holding that Florida's procedures were inadequate and unfair.

The Ford decision means that three of the four "crazies" cited in Robert Sherrill's attack on Florida's "execution binge" have been granted a reprieve from the chair [see "In Florida, Insanity Is No Defense," *The Nation*, November 24, 1984]. A week after Sherrill's article appeared Governor Bob Graham conceded that Gary Alvord, a convicted murderer and paranoid schizophrenic, was too crazy to be executed and sent him to a state asylum. A year ago the Florida Supreme Court overturned the conviction and sentence of James Hill, a mentally retarded man accused of the murder of a young girl. He is now in prison, awaiting a hearing to determine if he is competent to stand trial.

The Court's recent decision will affect only about a dozen prisoners nationwide, contrary to the cynical dissent of Justice William Rehnquist, who suggested that it amounted to "an invitation . . . to advance entirely spurious claims of insanity." The problem with the ruling lies in its declaration that if a prisoner "is cured of his disease, the state is free to execute him." Mental health workers are thus faced with the Kafkaesque dilemma of trying to help someone become a functioning member of society so that he or she can be killed. Commutation of sentences for such rare cases would be the compassionate route.

LET 100 SCHOOLS OF SINOLOGISTS CONTEND

We wish to congratulate Chinese writer Wang Meng, a *Nation* contributor, on his recent appointment as Minister of Culture.

Given his background—Wang spent seventeen years in prison and in internal exile after Mao Zedong attacked one of his short stories—there is much speculation over how he will handle his new responsibilities as the judge of what books, plays, periodicals and films will be allowed in China.

Sinologists have noted the irony in Wang's becoming Minister of Culture at a time when the party is once again promoting the "double hundred" maxim as a spur to creativity. "Let a hundred flowers bloom, let a hundred schools of thought contend" was put forward in 1956 by Mao, after which Wang wrote the story that got him in all his trouble.

A more recent clue to Wang's ideas on culture may be found in *The Nation*'s 120th anniversary issue, where he reflected on what America meant to him. "I like . . . apple pie, popcorn," he wrote. "I like the writings of John Cheever and Truman Capote . . . and the song 'The Way We Were.'"

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BEAT THE DEVIL.

The Liberty Cult

Fleeing the horrors being perpetrated in the name of Liberty, I headed for Ireland, home and mother. At J.F.K. Airport I picked up a copy of *Time*'s special issue, "American Best," to read on the plane. The tone of gloating self-satisfaction was unbearable. "In the comparative pastlessness of the New World," Lance Morrow wrote, "even blood hatreds would tend to be transient and depthless, unlike the generations-long unappeasable tribalisms of, say, Ireland or the Middle East. Freedom turned America into an epic of improvised life. It made the Americans a race of new creatures in the world and lent an ennobled shine to a national enterprise that was also crass and bloody."

It would be interesting to get the views of a Native American on this passage, particularly on the transience of blood hatreds. Blacks might similarly find the passage breezily insensitive to history. Homosexuals, handed the Supreme Court's treat concerning the sodomy laws, might want a word with Morrow too.

"In the U.S.," Morrow also wrote, "there are 9,144 newspapers, 11,328 periodicals, 9,824 radio stations, 942 commercial TV stations and 300 public TV stations. . . . This almost preposterous tide of information and opinion is not censored or jammed." It doesn't need to be, because almost all those newspapers, periodicals, radio stations and TV stations say the same thing with a unanimity and a deference to vested power that is totalitarian to the core.

The newsstands at Heathrow Airport had lots about the royal family and I gratefully threw *Time* into the trash bin. Waiting an hour for my plane to Cork, I settled down with "The Royal Wedding Souvenir" booklet on the impending union of Prince Andrew and Sarah Ferguson. The toothy Prince looks like a nitwit. Fergie is Doll Tearsheet, earthy foil to Princess Di. Her slightly sluttish leer in the gatefold triptych maddened me like wine. "Writ large over that charming freckled face is the word 'fun'," said the souvenir book, "but it is tempered by a worldliness born of the reality of a reshuffled family." Delicious. I turned to the pages devoted to royal wedding dresses. There was an uproar in 1952 over Queen Elizabeth's satin wedding garment, designed by the deadly Norman Hartnell. The idea was that everything should be British, but it was supposed that alien Italian or possibly Japanese silkworms had been employed in the manufacture of the dress, even though these worms had been taken to Scotland to give them at least the tincture of British nationality. Hartnell later confided that the worms had been nationalist Chinese in origin. The United States seems now, amid the idolatrous cult of the Liberty Goddess, to be in the same frenzy of "Born Lucky" national pride that Britain went through at the time of the coronation, which was in fact the moment when the country's fortunes really began to plummet. Morrow was not alone in his hubris. Here's another typical passage, from *U.S. News & World Report*: "We are a people on a pinnacle, gone giddy with our greatness . . . celebrating the centennial of the Statue of Liberty, we swept ourselves to new heights with our love for our land and our lore."

I headed for Ireland, where people take a properly materialist approach to the question of freedom. No less that 63.5 percent of the voters in the recent referendum on the legalization of divorce chose not to alter the Irish Constitution. This was not quite the tribute to the power of the Catholic Church that is supposed. Irish womanhood, or at least a significant portion of it, asked probing questions about alimony, child support and inheritance rights, and received unsatisfactory responses from the government. Freedom, as Lenin said, is the recognition of necessity.

Death and Sex

One powerful sense I did get from a week's worth of encounters with old friends and new acquaintances in the Blackwater Valley is just how dangerously lunatic people outside the United States consider Reagan's America. On July 5 *The Irish Times* ran a story on the "Liberty Weekend" celebration and alongside it a wire service report about the *contra* land mine that on July 3 killed a truckload of thirty-two civilians in northern Nicaragua, including twelve women and twelve children, two of whom were infants. An entire family of thirteen was wiped out. More than one person asked me if this horrible episode of U.S.-sponsored mass murder would get much coverage in the U.S. media amid the celebrations of Liberty. I said that based on past experience I doubted it very much.

My mother, who has never exhibited the slightest interest in any sport besides fox hunting, had got herself hooked on the World Cup. She was still glowing over England's defeat by Argentina and glowed once more as the West Germans finally went down in defeat. The soccer setback should add to Thatcher's deserved unpopularity. In April the Labor Party won a by-election in Fulham, a district in southwest London, by a majority of 3,503. The Labor Party rejoiced, but amid the good cheer, women in the Islington constituency Labor Party successfully engineered a motion reproaching Nick Raynsford, the victor in Fulham, for decorating his campaign literature with pictures of himself and his wife and two children. The motion, subsequently passed by the Greater London executive committee of the Labor Party, said that such campaign materials were "unfair to gays and lesbians" because they "unnecessarily highlighted the fact that he [Raynsford] was not a homosexual," and urged a ban on such family pictures as a gesture toward "eliminating heterosexism."

Laughing heartily at this news I called my friends at *New Left Review* to see if it was true. I got hold of Colin Robinson, marketing manager for Verso, *NLR*'s publishing imprint, who said that yes it was all just as I'd said, adding stiffly that he himself, as a member of the Labor Party's Haringey branch, had just voted for the motion. It will go before the entire Labor Party at the national conference this summer. The correct line is that the candidate can be depicted either alone or in a non-heterosexist crowd.

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ALEXANDER COCKBURN

Agitprops

● Thomas Friedman's aversion to anything that might discomfort supporters of Israel caused him to write these laconic words in *The New York Times* for July 6, apropos the murder by Israeli Shin Bet agents of two captured Palestinian hijackers: "The manner in which the two men were treated also reflected the fact that Israel in many ways is a very informal, young, frontier democracy where there is a tendency to cut corners in the rush to get things done." Even by Friedman's deplorable standards this is amazing.

● *Against All Hope*, the prison memoirs of Armando Valladares, has received some enthusiastic reviews, notably in *Time* and in *The New York Times Book Review*, where Ronald Radosh lathered the book with praise. None of this is surprising, since Valladares spent twenty-two years in a Cuban prison and therefore, whatever his merits as a poet and a reporter, could expect friendly treatment in such venues. In fact, Earl Shorris, *The Nation*'s reviewer, made it clear that Valladares's book was badly produced, incompetently translated, internally inconsistent and banal. But even Shorris didn't point out that the Radoshian encomia to the poet should be qualified by the fact, omitted from Valladares's memoirs, that he worked as a police officer in the Batista regime.

Morton's Fork

The largest protests in Cornell University's history, against apartheid, drew no attention from the national press at the time they took place, back in April of last year. I remarked here at the time that the trouble was that the demonstrations had been peaceful and that as soon as some violence occurred the university would find itself in the headlines and in the inevitable editorial deploring hooliganism and urging peaceful protest.

A year later one divestment advocate at Cornell threw a pie at president Frank Rhodes and persons unknown smashed windows in Rhodes's house and in the office of the dean of students. The editorialist of *The Ithaca Journal*, a particularly torpid and cloth-headed link in the Gannett chain, sprang to battle stations in a sententious outburst that concluded (clichés in italic):

> If the protesters *value their credibility*, they will first look for information and satisfaction from Cornell administrators, *whose doors are open. If they value their causes*, they will keep the conflict on a level of *an exchange of ideas*. On university battlegrounds, that's the *only way to win*.

Contrary to Morrow, this is exactly what 9,000 other newspapers in the United States would write. Needless to say, *The Ithaca Journal* has delighted in mocking the peaceful demonstrators, and the Cornell administration has been conspicuously devious in its dealings with divestment campaigners, knowing well that in an exchange of ideas nothing need ever happen.

By and large, universities have got away with the most shameless shilly-shallying in the divestment debate, whereas student activists get finger-wagging lectures from columnists like Flora Lewis and economists like Milton Friedman. Key in this type of attack is the argument that if students want their colleges to divest, they have a moral obligation to boycott all products made by companies doing business in South Africa. In such onslaughts the student is chided for not going far enough. The student duly goes "too far" and is given a sound editorial thrashing for being contemptuous of democracy, the liberal tradition, humanism, John Stuart Mill, etc.

Meanwhile the universities, or many of them, plump for "selective divestment," which gestures at moral principle but leaves the portfolio basically intact. Harvard has managed to divest just four companies from its portfolio since 1981. As Joel Achenbach, completing a four-year term as a trustee of Princeton, remarked sourly in *The Miami Herald* for June 8, selective divestiture benefits no one so much as the consulting firm of Arthur D. Little, based in Cambridge, Massachusetts. A.D. Little sells ratings of companies, ranked according to their compliance with the Sullivan Principles. There are three categories ranging from good to poor, and even if a company is in category three, some universities are merciful. The University of Miami sells stock in companies dipping in Category IIIb or IIIc. IIIa is O.K. As Achenbach says: "The moral mission has been obfuscated. It is as though the huge corporate system in America—a system that includes both universities and profit-making companies—has made a slight internal adjustment. And now everyone can go back to business as usual." This brings us back to the Liberty cult, the commodification of freedom, in which celebrants in their spongy green halos can themselves become Statues of Liberty in this orgy of chauvinistic self-satisfaction.

The True Spirit of Ellis Island

As a general rule Len Kaminsky, administrator of the Haitian Refugee Center in Miami, approaches the daily *New York Times* crossword puzzle with keen enjoyment. But it was a chapfallen Kaminsky who peered at the puzzle for May 27 and came upon the clue to 30 across, "Illegal border crosser." The answer was "Wetback." Kaminsky sprang to his typewriter and wrote to the editor of *The Times*: "I fail to see how any pejorative or racist term can be allowed into the crossword puzzle. I have never seen racist labels for blacks, Jews, Puerto Ricans, etc. used in the crossword. Do you not feel Mexican immigrants deserve the same respect?"

Back came a letter from the puzzle-setter:

> When the puzzle that contained wetback was sent in to me, I hesitated to publish it because I was under the impression that it had a pejorative connotation. However, Webster's New World Dictionary, which is the "Bible" of *The Times*, does not state that wetback is pejorative or racist. It merely calls the term "colloquial." As for racism, you may be interested to hear that the Spanish-American community in Harlem chose me as Man of the Year in the 1950s. Also, my poems and articles on brotherhood have been widely acclaimed. I am sorry you were offended. Pax, amor et felicitas, Eugene T. Maleska.

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MINORITY REPORT.

CHRISTOPHER HITCHENS

In January 1969 a number of African liberation movements met in Khartoum. Present, among others, were the A.N.C., Swapo, the Popular Movement for the Liberation of Angola and the Zimbabwe African Peoples' Union. Their deliberations were sponsored in part by the Soviet Union, which had decided to sort out the sheep from the goats. The gathering became known as the "authentics conference." Henceforth only certain movements and parties enjoyed Soviet-bloc recognition and support. The Russians made some appalling errors during this period, the most notorious of which was their failure to see that Robert Mugabe's organization was the coming force in Zimbabwe. But it's worth recalling the authentics conference because it shows that contrary to conservative mythology, the Soviet Union is not indiscriminate in its support of anti-imperialist movements.

Contrast this with the emerging "Reagan doctrine," under whose precepts any rabble or riffraff is good enough. Despite a few squeaks and murmurs from the cold war liberals, who provide most of the arguments for the doctrine, it is no different in essence from the old fantasy of rollback, which employed the sweepings and castoffs of the Third Reich as potential liberators of Eastern Europe (and, in the recesses of certain Munich broadcasting stations, still does).

Consider the three rebel movements—Afghan, Angolan, Nicaraguan—that this Administration has urged on us. Analyzed from the point of view of authenticity, they stack up rather oddly. The Afghan mujahedeen have the most backward and primitive political program (it would be amusing to see the reaction of the right-wing Israeli lobby to an Afghan "freedom fighter's" view of the Jewish national home), but they can claim to represent a people that is genuinely opposed to a foreign military occupation. Jonas Savimbi's guerrillas broadcast racist propaganda against the mixed-race leadership of the M.P.L.A., and it is another irony that this black racism is financed by South Africa, which also supplies the arms and the rear bases. Unita is tribal, which is its strength and its weakness. The M.P.L.A.'s leaders are the first to admit that they themselves lack support among the southern Ovimbundu people, whom Savimbi claims to represent.

A popular movement with a feudal program, a tribal movement with a racist program, and then we come to the *contras*, a gangster movement with no popular support and no published manifesto of any kind. The Afghans would fight even if Gen. Zia ul-Haq and the C.I.A. abandoned them. Some vestige of Unita would probably survive even if Namibia became independent and the Boers were overthrown. But the *contras* say openly that they cannot last a day without U.S. support. They advertise and proclaim their status as a wholly owned subsidiary, as parasitic on Washington as was the regime whose bastard child they are. Of these three movements, it is the third and the worst—the least "authentic"—that the American right has taken to its bosom.

There's a huge ration of balls currently being talked about "reforming the *contras*." Balls of this kind was talked freely by the President and by his new supporters, including Representative Les Aspin, during the recent vote on military aid. O.K., runs the argument, the *contras* are on the take. They grab our humanitarian aid and splash it up against the wall of some crack parlor in Miami. They use it to buy officers in the Honduran Army. They have, in the words of Gerardo Martínez, "clean boots and dirty hands." (Señor Martínez is the ex-commander of a *contra* detachment called—be still, my heart—the Jeane Kirkpatrick brigade.) Nevertheless, the argument continues, the *contras* must have more money, to straighten them out. They must be Americanized, professionalized and so on.

We have been here before. When the C.I.A.'s murder manual was exposed and when there was no longer any sense in denying it, the terms of the excuse were changed. Sure, the *contras* have been raping and butchering people, and going in rather heavily for looting and "forced recruitment." That was why we needed the manual—to put some discipline and American know-how into the outfit. Ingenious, no? So one got paragraphs like this, in a manual written in Langley, Virginia:

> This type of operation is similar to the Fifth Column, which was used in the first part of the Second World War and which through infiltration and subversion tactics allowed the Germans to penetrate the target countries before the invasions. They managed to enter Poland, Belgium, Holland and France in a month, and Norway in a week. The effectiveness of this tactic has been clearly demonstrated in several wars and can be used effectively by the Freedom Commandos.

If the *contras* needed advice based on the practice of the Third Reich, one is forced to wonder what they were like before they were reached by the civilizing mission of the C.I.A. There are, so far, no indications that the level of intensity of *contra* atrocities has declined as a result of the "can do" training they have received at the hands of their American advisers.

Yet last month the House of Representatives voted, using precisely this logic, to extend and deepen the U.S. commitment. I hope that the names of the Democrats who made this possible are preserved on a scroll somewhere. They voted for the *contras* not in spite of but because of the evidence that they are vicious and corrupt. From now on every life that the *contras* take will be the responsibility of Congress, a responsibility accepted with open eyes and full information. When Reagan looks at the *contras* and likes what he sees, that's one thing. But the Democratic defectors changed their vote in the week that the corruption inquiry surfaced, in the week that public opinion declared against the aid by two to one, and just before the World Court found against William Casey. The mantle of "authenticity" has been thrown over a movement that candidly models itself on the Salvadoran death squads. I think we can say that from July 1986 the Reagan doctrine was well and truly launched.

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ARTICLES.

JUSTICE BY ANECDOTE

The Real Stakes In Tort Reform

STEPHEN GILLERS

An alliance of insurance companies, governments and manufacturers, alleging crisis conditions, has proposed numerous "reforms" of the U.S. system for compensating accident victims [see Nancy Nichols "The Manufacturing of a Crisis," *The Nation*, February 15]. Three of the proposals deserve special attention. If enacted, millions who could today be compensated for their injuries would receive nothing, and millions more would receive substantially less than under current law. Even if there were a crisis, it would not justify these changes.

A proposal would lower the maximum contingency fee a plaintiff's lawyer could charge, a second would change a legal standard for liability and the third would place caps on awards for "noneconomic injuries." The three proposals strike at distinct but complementary pressure points. The first would make it harder to hire a lawyer. The second would make it harder to establish the defendant's liability once a lawyer was found. And the third would severely limit the damages a victim could recover if liability could be established.

The insurers and their allies contend that enactment of these proposals will benefit the public. Consumer groups and trial lawyers who represent plaintiffs disagree. Neither side is entirely correct, but the insurance alliance is a lot more incorrect and a good deal more disingenuous in its arguments.

Limits on contingency fees in personal injury actions are universal. The most common maximum permissible fee is one-third of the client's recovery. Critics want to substitute a steep sliding scale. Under a Reagan Administration proposal, the contingency would be 25 percent of the first $100,000 and decline to 10 percent for amounts above $300,000. Lawyers would have a disincentive to spend time on large recoveries because time spent on many small recoveries would be substantially more remunerative. A key Senate committee has rejected the Administration's contingency fee proposal, but others like it have been advanced at the state level.

Lawyers defend large contingency fees by citing their risk of getting nothing if the defendant wins. Many cases, though, present virtually no risk. In those cases it is clear there will be a recovery; only the amount and date of payment remain uncertain. If a case contains an appreciable risk of no recovery, most lawyers will reject it and spend their time on other, low-risk matters.

Furthermore, the one-third figure has become nearly automatic. The limit was originally intended as a maximum to protect an injured person who must hire counsel but is in a poor position to bargain. Today, one-third has also become a minimum, a situation that is no different from price-fixing. It is often impossible to find a lawyer who will accept a personal injury case for a lower percentage, even when, given the certainty of recovery, it would make economic sense for a lawyer to charge less. Trial lawyers and consumer groups rightly criticize the absence of competition in the insurance industry, which is exempt from the antitrust laws, but the nearly automatic one-third rate is also anticompetitive and anticonsumer.

On the other hand, severe limitations on contingency fees would mean disaster for tort plaintiffs. The President and others dangle these proposals as benefits for the victim, in an effort to divide the opposition with charges that lawyers get too much of the client's judgment. In a recent speech, President Reagan said that maximum contingency fees should be reduced so that "liability judgments go to those actually wronged or injured and not to lining their attorneys' pockets." That is sophistry. The Administration's proposal is meant to keep money from injured victims as well as their lawyers. If enacted, a victim may get a modestly greater percentage of a given recovery, but the recovery will be substantially less. The Administration that wants to kill the Legal Services Corporation has the same strategy for accident victims as it has for poor people: make it economically hard for either group to hire lawyers.

The duplicity in the proposal to reduce contingency fees is revealed by the absence of a mirror proposal to limit the fees of defense lawyers. Corporate defendants, like A.H. Robins in the Dalkon Shield cases and Manville in the asbestosis litigation, are represented by private firms whose hourly rates run into the hundreds of dollars. Defense lawyers, who are paid win or lose, often receive fees far larger than their opponents get only if they win. Why haven't the insurers and manufacturers offered to cap the fees of their own lawyers, then pass the savings on to the rest of us? Because as they know quite well, it takes money to buy the two qualities that win lawsuits: hard work and talent. The contingency rate caps aim to insure that one side will get most of both.

A second significant proposal would alter the rules in products liability cases—cases in which a person is injured as a result of a defect in a consumer product or in the product's warnings or directions. If adopted, a defendant (or its insurer) would have to compensate a victim only if he or she could prove negligence. The Reagan Administration is especially keen on effecting this change, which would displace the current products liability law in all fifty states (some of it legislatively enacted) and substitute a Federal standard substantially more protective of defendants

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than current rules. So much for federalism.

Ever since the first steam engine and the first automobile, state courts have struggled to identify the appropriate liability standards when a person is injured by a manufactured product, a drug or a chemical. Modern products liability law has its judicial roots in opinions from the early part of the century. The greatest changes have come in the past two or three decades, as courts have moved away from a test that makes defendants liable only if negligent, toward assorted tests that de-emphasize the requirement of fault. This movement has been accompanied by a greater availability of insurance, the change from a defendant group composed mainly of individuals and small businesses to one composed of large entities and governments, the increase in technologically complex and potentially more dangerous consumer products and the rise of a mass-market economy. Concepts of negligence that were useful when evaluating the culpability of individuals ("Did he behave like a reasonable man?") do not translate easily when evaluating the conduct of the Ford Motor Company, Bristol-Myers or Du Pont. Although the insurance alliance suggests otherwise, fault remains an element in many of the new tests, reappearing in assorted locutions. But the difficult task of proving a negligent state of mind has been dropped in products liability cases in virtually every state. The Administration and its allies would repeal this trend.

Who should pay for the mistakes that inevitably accompany progress and cause death or injury? At one extreme, we could decide that each victim should suffer the entire cost of his or her injury. At the other extreme, we could have the cost of all losses shared by everyone whatever their cause. Current law, between these options, has been gradually moving closer to the second. By easing the standard for establishing liability, the courts set in motion a series of decisions that effectively spread the cost of accidents among many. For example, manufacturers, aware of eased liability standards, buy insurance to protect themselves, then pay for it by increasing the price of their products. If large enough, they become self-insurers, charging marginally more for their products and then allocating the extra income to pay a statistically predictable number of claims. Either way, an injured consumer is compensated by all other buyers of the defendant's products. Companies that manufacture safer products will have fewer claims, lower costs, more sales and more profit.

The Administration and others would place the cost of substantially more accidents on the victims alone by making judicial relief impossible. Current law distills more than a half-century of experience and the intelligence and insights of leading judges, legislators and scholars. Certainly it could stand adjustment, but that's just the point. Tort law needs continual adjustment as society changes. That adjustment must be gradual and delicate. With the stroke of a radical pen, the Administration and others want to scuttle decades of gradual refinement and resurrect the tort law of a prior age. Fashions may be cyclical; concepts of liability are not.

A final proposal is meant to insure that even if an accident victim wins, he or she won't win much. The proposal would cap recoveries for pain and suffering. *The Wall Street Journal* says tort law is meant to "compensate a victim for identifiable harm, such as lost income." So-called noneconomic harm is not viewed as real harm. The Reagan Administration would limit pain and suffering recoveries to $100,000. Other proposals, including one adopted by the Senate Commerce Committee, would be more generous, imposing limits of $250,000.

Pain and suffering damages do raise problems. Subject to judicial review, juries determine these damages with little in the way of guidelines. One jury can award $1 million and another half or twice as much on the same evidence. There is an unacceptable randomness there, which can be corrected with closer judicial oversight and fine tuning. A cap is not fine tuning.

Understand what this is about. Assume a person is crippled or disfigured because his or her car was poorly designed or because a prescribed drug contained inadequate warnings. If liability is proved, the plaintiff will get lost earnings and medical expenses, both past and future. These are out-of-pocket losses. But what about the suffering that accompanies the loss of one's legs or vision? Or the chronic pain that makes sleep and routine acts difficult? Or the pain and suffering that come with being disfigured for life? How should we evaluate and compensate such losses?

That is a hard question. A cavalier decision that $100,000 or $200,000 is the most these losses are ever worth, no matter how great and prolonged the pain, how intense the suffering, how young the victim or how blameworthy the defendant is more than irrational and cruel. It is, in the word of one West Coast lawyer, barbaric. It trivializes the capacities that make us human, treating people as valuable mainly to the extent of their worth on the job market.

A corollary proposal would permit defendants to pay pain and suffering awards over a reasonable period of time through the purchase of an annuity reduced to present value. For example, a defendant ordered to pay $750,000 for pain and suffering might instead pay only $250,000 immediately and the $500,000 balance through an annuity that will give the plaintiff $50,000 annually for ten years. This is cheaper for the defendant because the cost of a $500,000 ten-year annuity, when the interest rate is 10 percent, is only $307,000. So the defendant's total payment for pain and suffering is $557,000 instead of $750,000. Trial lawyers oppose this change because it also reduces to present value their contingent percentage of the pain and suffering award. Instead of getting one-third of $750,000, they will get one-third of $557,000.

But the idea is worth studying. Pain and suffering awards compensate for losses that will extend over time. Why not allow the compensating payment to extend across time as well? There are a host of delicate subissues here, such as providing an adequate factor for inflation, but in principle the idea has merit.

The line about an insurance crisis needing correction has been swallowed by people who should know better, as

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Robert Sherrill wrote in these pages [see "One Paper That Wouldn't Shut Up," May 17]. *The New York Times* has editorialized against "the lawyers who manipulate juries to win outlandish settlements—and fat contingency fees," without bothering to explain or support its exaggerated verbs and adjectives. Meanwhile, insurance companies refuse to provide detailed financial information to substantiate their claims and rely instead on anecdotal cases. The Administration has joined the anecdotal war. For a while it cited the case of the three lobstermen who drowned at sea after acting on an erroneous weather report. A lower court awarded their estates $1.2 million in an action against the National Weather Service. This case apparently proved that the system was in disarray and should be changed.

Recently an appeals court overturned the award. Does that mean the system is just fine? No it doesn't, no more than any single case can stand for an entire system. Aberrational verdicts will always occur. They prove nothing.

Our law should be periodically re-examined to assure that across the run of cases, results are just. We don't need a crisis and we don't need anecdotes to monitor the quality of our justice. Justice is a worthy product all by itself. The massive structural changes lately advocated by the Administration, the insurance industry and manufacturers have nothing to do with justice. They have to do with its opposite. □

AMERICA MOVES RIGHT—II

Big Business Backs the Freeze

THOMAS FERGUSON AND JOEL ROGERS

As soon as the dust from Ronald Reagan's election had settled, business Democrats regrouped. The most venerated of all the New Deal Democratic business leaders, investment banker Averell Harriman, had already begun putting together a new pressure group. Organized principally by his wife, Pamela, Democrats for the 80's appeared in December 1980. On its board were Stuart Eizenstat, previously a top aide to Jimmy Carter and currently a director of Hercules, a major defense contractor; Harry McPherson, former counsel to Lyndon Johnson and Atlantic Institute director; and Robert Strauss, Carter's former trade adviser, who of all the leading Democrats is perhaps the best connected to Wall Street and

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yet every time Congress has voted down contra aid, Israel has increased its involvement with the contras. Since the late 70s Israel's presence in Central America has followed the same seesaw pattern, supplying Guatemala, El Salvador, Somoza and his heirs, the contras, whatever the US denies.

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'WERE THE ROSENBERGS FRAMED?'

This historic debate, which was sponsored by The Nation and The New Republic at New York City's Town Hall on October 20, 1983, has been described as "a political-literary brawl" (Los Angeles Times), at which "a cheering, jeering crowd of 1,500 followed every jab in a fight over history" (The Washington Post).

The main participants in the debate were: Walter Schneir and Miriam Schneir, authors, Invitation to an Inquest; Ronald Radosh and Joyce Milton, authors, and Sol Stern, research assistant, The Rosenberg File: A Search for the Truth; and Elizabeth Holtzman, moderator. There were also questions and comments from Michael Meeropol, Morton Sobell, Marshall Perlin, James Weinstein, Victor Navasky and others.

A complete record of this extraordinary event can now be purchased in transcript or cassette. Transcripts are available for $24 each; cassettes are $19 each. There are special discounts on orders of five or more. Send check or money order, payable to The Nation, to: "Rosenbergs," The Nation, 72 Fifth Avenue, New York, NY 10011 (a project of The Nation Institute).

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the multinationals. Another glittering bloc of multinational Democrats—including McPherson, former Secretary of State Cyrus Vance, Lazard Frères partner Felix Rohatyn, former Treasury Secretary and current Burroughs chief executive Michael Blumenthal, former Under Secretary of State Warren Christopher, and Washington "superlawyer" and Trilateral Commission member Lloyd Cutler—bulwarked the new Center for Democratic Policy, later renamed the Center for National Policy. Max Palevsky, who had been George McGovern's major fund-raiser, had served as a member of Xerox's executive committee and was now on the board of Intel, bankrolled a new journal, *democracy*.

With signs of discontent in the party rank and file rising rapidly, the Democratic business groups and labor leaders opened negotiations over the shape of a Democratic "alternative" to Reaganism. Their most important step was their first: the Democratic National Committee elected a new chair, Charles Manatt. A prominent lawyer and banker from California, whose law firm represented, or quickly acquired as clients, many companies with obvious interest in what happened in the Democratic Party (such as Nissan Motors and Northrup, a major defense contractor), Manatt swiftly embarked on a sweeping reorganization of the party.

His program was perfectly straightforward. Like most other business Democrats, Manatt wanted to strengthen the party's ties with the business community, rather than those with blacks, community organizations or the poor. To that end, he and his allies deliberately sought out millionaires and other wealthy business figures to run as candidates. They also tried to shore up the party's desperate financial condition. The Democratic Party was heavily in debt, and short-run relief required taking on more debt while struggling to pay off sums already run up. Under Manatt, who before becoming D.N.C. chair had been mentioned as a prospect to head the American Bankers Association, the party's financial structure soon bore more than a faint resemblance to that of a debt-encumbered Third World country being run under International Monetary Fund surveillance. Major banks, including Bank of America and Chase Manhattan, helped float loans to the party, which prominent business leaders guaranteed.

But the most significant move Manatt and his allies made to reform the party's finances was their organization of the Democratic Business Council (D.B.C.). Originally promoted by Byron Radaker (chief executive officer of Congoleum, the huge New Hampshire holding company whose Bath Iron Works subsidiary has been a major naval contractor since the days of Adm. Alfred Thayer Mahan), the D.B.C. required annual contributions from each member of either $10,000 from personal funds or $15,000 from the member's company. In return, the party invited members to participate in a regular series of task forces and study groups to develop party policies, as well as "quarterly meetings of a substantive nature held in Washington" and elsewhere, "where members can share their respective business, professional and political interest with the political leadership of America."

With big business as a whole headed increasingly toward the Republicans, the venture was a bit of a gamble for the heavily indebted party. But it proved a highly successful one. As they had done ever since the New Deal, labor-intensive manufacturers stayed away completely. Although lower-ranking executives of Arco, Occidental, Chevron and a few independents eventually signed on, most of the oil industry also declined to join. However, vast numbers of executives from capital-intensive military contractors—including officials of United Technologies, Allied-Signal, Tiger International, General Dynamics, Boeing and Grumman Aerospace—snapped up the high-priced memberships. Leading financiers, including Bank of America board chair Leland Prussia, and many investment bankers also joined, as did a huge bloc of real estate magnates, some high-tech executives, a few mostly lower-ranking figures in various multinationals (such as General Electric) and many corporate lawyers. Executives from several natural gas companies—a sector that historically has been interested in regulatory policy and in détente—also took out membership.

Organizing the D.B.C. required considerable time. Throughout this period, however, the economy was collapsing, and a host of other issues—Central America, European relations and trade policy, among them—were generating new problems for the Reagan Administration. As a consequence, not only much of the public but also important segments of big business began turning against the President.

For the Democrats, the gradual disintegration of Reagan's support in the business community presented both an opportunity and a danger. It was an opportunity because it brought many new recruits to the project of building a business-oriented alternative to Reaganomics. But it was also a danger because many of the firms suddenly interested in the party shared little beyond a disenchantment with Reagan's policies; in the longer term they could as easily destabilize the party as strengthen it. For much of 1981 and 1982, however, the specific ways in which Reagan's coalition was disintegrating meshed almost perfectly with traditional Democratic themes.

As a glance down the roster of the top Federal appointees of the Kennedy, Johnson and Carter administrations indicates, most top-level multinational Democrats came from companies that had a strong orientation toward Europe. Although in the 1970s the attention of American business as a whole began shifting from Europe to the Pacific Basin, the Middle East and other parts of the Third World, a disproportionate number of the old-line Democratic business executives who still dominated the party's elite structure retained this orientation. Moreover, in early 1982 they, along with a handful of multinational allies who were hoping to do business with the Soviet Union, made up precisely the parts of the business community that had the biggest grievances against the Reagan Administration. For many reasons—the Administration's huge military buildup (which included several systems denounced by critics as potential first-strike weapons that promised to destabilize the European theater), Reagan's Evil Empire rhetoric, the disastrous effect high U.S. interest rates initially had on European growth, the

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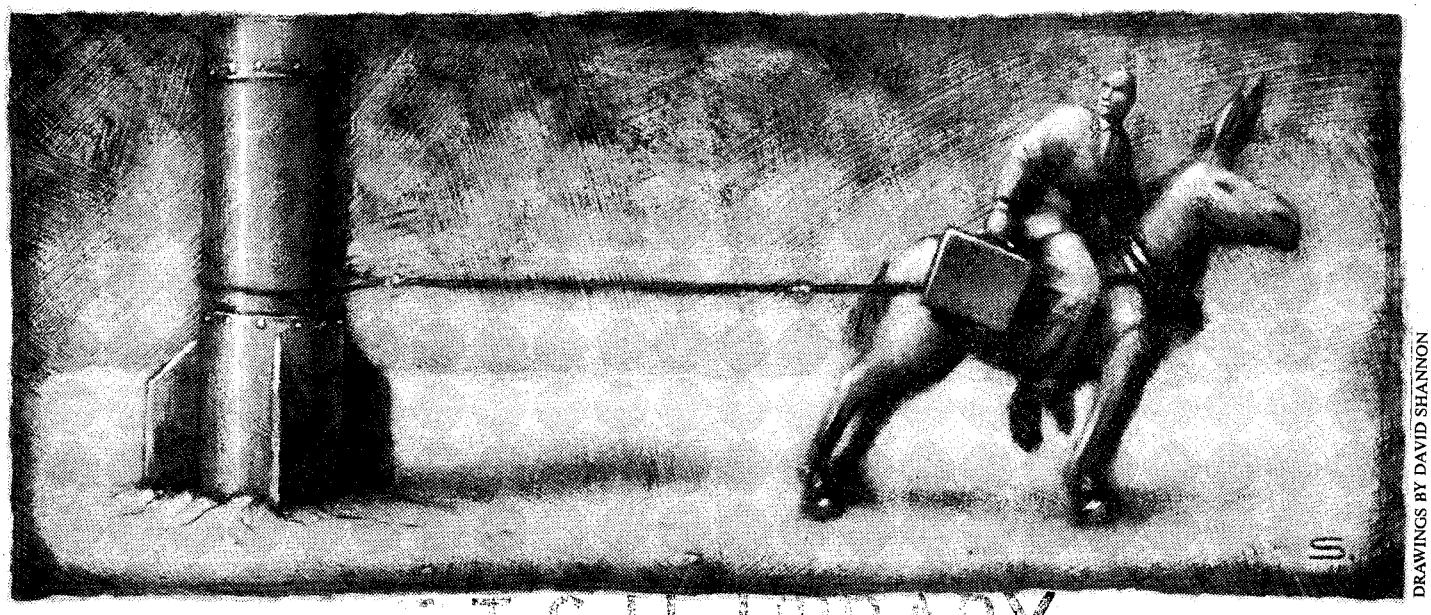
dispute with North Atlantic Treaty Organization allies over the construction of a pipeline to carry natural gas from the Soviet Union, American efforts to limit Europe's trade with the Eastern bloc, and the growing stalemate in arms control—a crisis was brewing in U.S.-European relations. In addition some leading multinationalists began having doubts about the Administration's aggressive Central American policies, doubts that were fanned by strong opposition from Europeans, criticism from friendly business elites in Latin America and the certainty that a U.S. invasion of Central America would lead to damage to the property of U.S. firms and massive protests around the world.

Traditionally Democratic business elites thus had an opportunity to do good and do well at the same time. Many seized it with relish. Harriman, Thomas J. Watson Jr. (whose family has long controlled I.B.M.) and other prominent Democrats in whose global vision and corporate strategies Europe has enjoyed a special place, sharply attacked the Reagan Administration for its neglect of arms control and relations with U.S. allies. Several leading multinational Democrats joined the board of the elite Arms Control Association, among them Robert McNamara (former Secretary of Defense and president of the World Bank, and now a director of Shell and many other multinationals, as well as a trustee of the Ford Foundation) and Adm. Bobby Inman (Deputy Director of Central Intelligence under Carter and by then the head of M.C.C., the computer consortium whose moving spirit was William Norris, the longtime Democratic head of Control Data, close friend of Walter Mondale and a champion of U.S.-Soviet trade). The association, rather quiet for some time, soon emerged as a strong and vocal critic of the Administration's arms-control policies.

The Rockefeller Foundation, whose president, Richard Lyman, was a Democrat, and whose board contained a generous sampling of multinational Democrats (notably McNamara, Brookings Institution board chair Robert Roosa and Carter's Defense Secretary, Harold Brown) and the few remaining liberal Republicans, instituted a major grant program for research on arms control. The Rockefeller Family Fund, organized by the Rockefeller grandchildren, set up another special arms control program. So did the Ford Foundation, the Carnegie Endowment for International Peace and the Chicago-based MacArthur Foundation, on whose board sat several longtime Democrats, including Jerome Wiesner (White House science adviser to John Kennedy, past president of the Massachusettes Institute of Technology and until recently a director of such multinationals as Schlumberger Ltd., the giant French oil-drilling concern). Several major environmental groups also announced they were adding nuclear issues to their list of concerns.

This new interest was reflected in a spectacular rise in major foundation funding for work on arms control and nuclear issues. A recent study of foundation funding related to issues of "international security and the prevention of nuclear war" found that, among the sixty-nine foundations studied, such grants more than tripled between 1982 and 1984, rising from $16.5 million to $52 million. A little less than 70 percent of this total was supplied by five big multinationally oriented foundations—MacArthur, Carnegie, Ford, Rockefeller and W. Alton Jones.

Because they are tax-exempt, the foundations and environmental organizations had to take care to be officially nonpartisan. But multinational Democrats also set up a number of organizations that were explicitly political. Paul Warnke, head of the Arms Control and Disarmament Agency under Carter and a partner of Washington superlawyer Clark Clifford, joined high-level officials of the Council for a Livable World, whose board included Wiesner, to establish Peace PAC, devoted to nuclear-war issues. Other organizations with ties to the multinational Democrats, such as the Union of Concerned Scientists (headed for many years by Henry Kendall, an M.I.T. physicist and Boston philanthropist whose father had chaired Roosevelt's Business Advisory Council at the height of the New Deal and helped found the Committee for Economic Development), renewed their longstanding campaigns on arms control and security issues.



DRAWINGS BY DAVID SHANNON

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At almost the same time Sol Linowitz (a prominent international lawyer with Coudert Brothers, for many years chair of Xerox and still a director of Time Inc. and many other concerns) began heading up an influential series of meetings between U.S. and Latin American elites. Financing for the project was provided by, among others, the Ford and Rockefeller foundations, the Rockefeller Brothers Fund, Chemical Bank, I.B.M.-Americas-Far East and Time Inc. This Inter-American Dialogue was quite critical of Reagan Administration policies in Central America.

By themselves, the multinational Democrats and their allies in the foundations and the predominantly Eastern, internationalist press were a force to be reckoned with. Their emphasis on arms control and the avoidance of armed intervention, moreover, laid the basis for a coalition with yet another powerful set of business groups that the Reagan policies were then alienating—urban real estate interests, particularly in the Northeast and the Midwest.

Because the Reagan tax bills made new investment so attractive, they could only accelerate the flight of business from central cities to the South and West. In addition, the Reagan budget presented in the fall of 1981 called for sweeping cuts in Federal spending on a wide range of urban programs—housing, transportation, state and local fiscal assistance, trade-adjustment assistance and urban infrastructure and development—which primarily benefited older cities and declining regions.

Such cuts would not only devastate the poor, blacks and blue-collar residents of these areas; together with the tax bill, they would also knock the props out from under many investments in real estate and other place-oriented business ventures. Real estate interests building in the downtown areas of large cities, for example, absolutely required mass transit to make their intensive development projects viable. Many projects, particularly for urban development, were counting on other forms of subsidy as well. Nor was real estate the only major business with a special stake in the economic viability of these urban regions. The media had to worry about shrinking local audiences for its lucrative flagship stations in the East. Local banks had to worry about protecting their deposit bases.

The result was, perhaps, inevitable. The elite concern with arms control and the military budget found a focus in the growing grass-roots campaign for a nuclear freeze. The multinational Democrats and the real estate interests coalesced behind efforts to reduce the Reagan arms budget by cutting—or, rather, restructuring—nuclear programs. From a decentralized campaign begun by a few committed activists, the movement for a freeze abruptly changed character. All of a sudden, Eastern real estate magnates with no known interest in military issues, such as the famous Donald Trump, began supporting a vaguely defined freeze movement. Foundations, investment bankers like Donald Petrie of Lazard Frères and many members of the Forbes 400 contributed to groups like the Council for a Livable World, which, along with the Union of Concerned Scientists, became a bridge between the freeze movement and the more conservative, establishment-oriented arms control movement.

With the same newspapers and television networks that criticized Reagan's budget proposals providing extraordinarily favorable coverage, the freeze movement took off. While professionals who were not directly threatened by the Reagan budget cuts (such as lawyers and accountants) generally held aloof, those in occupations that were threatened flocked to support activists who had previously worked on a shoestring. Physicians who never said a word about capping Medicare fees now joined Helen Caldicott in Physicians for Social Responsibility. Church groups that had temporized on the Vietnam War but that relied on Federal grants that the defense buildup placed in question, joined the movement. So did many teachers' unions and educators, who also faced big budget cuts if the Reagan military buildup continued.

By mid-1982 the antinuclear movement had become a powerful political force. But it had also moved far from the intentions of its original champions. Few of the business groups and foundations that now helped push it along wanted to explore the relations between multinational business, the use of force in U.S. foreign policy and social class. Accordingly, the critical content of the early freeze proposals largely evaporated. Allying with the freeze became little more than a way of expressing disapproval of a military buildup of the scale Reagan projected.

The height of the denaturing process was reached during the great antinuclear demonstrations of June 1982. Only days before millions marched in New York and Washington, the crisis in Lebanon occurred, and with it came the increased danger of a U.S.-Soviet confrontation. After a private debate, sponsors of the rallies agreed to make no public reference to the events in Lebanon.

By then, however, Manatt and other multinational Democrats were moving to affect the character of the antinuclear debate in a way that would still further strengthen the Democrats' ties with the business community. Democratic military strategists such as Robert Komer (a superhawk on Vietnam in the Kennedy and Johnson administrations and an Under Secretary of Defense under Carter) had long been arguing for the virtues of "coalition defense." During a period of nuclear stalemate between the superpowers, they wished to increase conventional capabilities through closer alliances and "burden sharing" with major allies. They were also agitated by the huge carrier-heavy naval buildup under the Reagan Administration. Although carriers were "splen-

SUPREME COURT WATCH REPORT ON JUDGE SCALIA

The Supreme Court Watch project of The Nation Institute has been collecting information on the legal records and backgrounds of potential nominees to the Court. The project has produced both an analysis of Antonin Scalia's positions on several key legal issues, as well as a general report on his background; both are available to members of the press and interested scholars. For more information please contact Emily Sack, director, The Nation Institute (212) 242-8400.

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did for Third World conflict," Komer argued, the United States already had enough of them; more resources should go into land and air forces. Other Democrats, including Samuel Huntington, went a step further. Thanks to revolutionary developments in electronics, the technologies available for conventional war were in rapid flux. A whole new generation of weapons—precision-guided munitions, pilotless drones and robots, supersophisticated tanks, battlefield missiles and all sorts of aircraft-delivered weapons—held out the promise of a new kind of very expensive land war. Huntington argued that the new technologies would enable the United States to strike at Soviet forces in Eastern Europe with devastating force.

In either version of the argument, the emphasis on conventional land and air forces, particularly in Europe, mandates less reliance on nuclear weapons and on an enormous Navy. This gave Manatt and company a providential way to square the circle. The Democrats could now endorse the freeze, which implied the cancellation or scaling down of some big-ticket nuclear programs, such as the MX missile, the B-1 bomber (manufactured by Rockwell International, which, unlike other contractors, had no executives on the Democratic Business Council) and perhaps the D-5 missile for the Trident submarine. Adding these savings to those gained by reversing the naval buildup, both the multinationalists, oriented toward Europe or potential accord with the Soviet Union, and the real estate and other regional interests would gain. And because a whole new field of conventional weaponry would open up, even many military contractors would be satisfied.

As explicit commitments to the freeze faded, many Democrats even abandoned the rhetoric, and (following the Administration) shifted in favor of "build down" proposals on nuclear weapons. Sponsored by a group of mostly Democratic officials with very close ties to weapons producers, the basic idea was for the United States and the Soviet Union to destroy a certain number of nuclear warheads for each addition they made to their nuclear forces. Because they provided for the destruction of some nuclear weapons, such initiatives could be plausibly passed off as freeze-inspired. In fact, they were formulas for the further modernization of strategic forces. Added to the arguments for more conventional defense, they seemed at the time to be a perfect answer to many Democratic needs.

Despite such positioning on the nuclear issue, however, the Democrats still lacked an important attraction: a distinctive economic alternative to the Reagan program that would command both business and popular support. To be sure, at close to the bottom of the Reagan recession—with imports devastating once-competitive business sectors, and interest payments exceeding corporate profits as a share of national income—an uneasy "industrial policy" compromise was patched together among the jumbled interests in the party. But this loose compromise, which reaffirmed the party's longstanding commitment to free trade while promising support for declining industries and unions, proved unstable. Almost as soon as it was constructed it shattered under the political pressures induced by the Reagan boom. □

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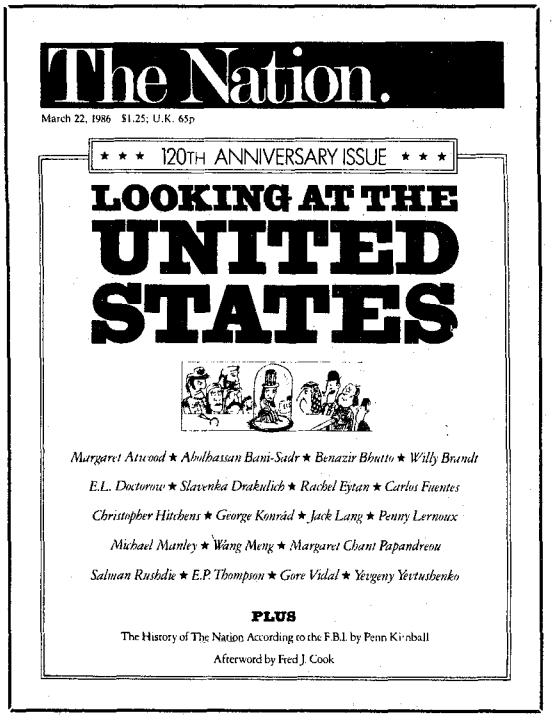
The Nation's 120th Anniversary Issue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Roy Cohn

(*Continued From Front Cover*)

Benjamin, of the Departmental Disciplinary Committee that had recommended Cohn's disbarment, presented a mass of evidence detailing some amazing chicanery.

Against this mass of evidence Cohn mobilized his friends, and in their testimonials we find a profile of our times and the long shadow of Cohn's influence. Those who spoke on Cohn's behalf include prominent journalists, high-ranking men of God, Federal and state judges, law school deans and professors, establishment lawyers, White House officials, politicians of every stripe, millionaires, a legless Vietnam vet, an ambassador and the former assistant director of the New York office of the Federal Bureau of Investigation.

William Buckley testified on his oath that much of the criticism of Cohn stemmed from his "devotion to his country." To Buckley it was "a priori inconceivable" that Roy Cohn's honesty and integrity could be other than "absolutely impeccable." Barry Farber found Cohn's word "a sacred trust." The managing editor of *Reader's Digest* avowed that Cohn was "genuine" and "refreshingly honest," and Steve Dunleavy, then metropolitan editor of the *New York Post*, said Cohn's honesty and integrity was "pristine." Michael McManus, a former White House aide under Reagan, told the disciplinary panel that Cohn's honesty and integrity were "of the highest order," words echoed by comedian Joey Adams, who described them as being of the "highest caliber," adding: "The people I met with him are the highest caliber . . . almost every big judge in the country. . . . There isn't any judge of importance that I haven't met in his home. . . . anybody from [top government officials] to the President."

Barbara Walters testified that she "totally believe[d] in his integrity, his caring, his honesty," and Sidney Zion said that he trusted Cohn: "Most people I know in . . . the journalism profession know . . . when he says something, he doesn't lie to us and that is the number one test for a journalist . . . you always get a straight story from him."

Most vehement of all journalists in Cohn's defense was his old friend William Safire of *The New York Times*, who said he'd known Cohn for about thirty-five years and had always found him to be "an honest man . . . a man of considerable integrity." Safire said: "I am here . . . because I am incensed at the late hit, this campaign to race against time to get somebody who is not in good physical condition to defend himself. I think it is shameful, and I think you all ought to feel that shame . . . when you look at yourself in the mirror in weeks and months to come." He accused the disciplinary panel of being motivated by "venom" and said it was "out to get somebody because of what I consider possibly an ideological motive." As a matter of chronology, it was almost one year after the evidentiary portion of the hearing had been concluded, and disbarment recommended, that Cohn's lawyer stated to the panel that his client was suffering from liver cancer, though no medical certificate was ever presented describing his ailment.

And so it went. Bishop Edwin Broderick, executive vice president of Catholic Relief Services, testified that Cohn's uprightness was unquestionable, and Msgr. Eugene Clark, director of communications for the New York Archdiocese under Terrence Cardinal Cooke and previously personal secretary to Francis Cardinal Spellman, said that for years Cohn had been "very helpful" to the archdiocese and that Spellman had once remarked, "You can always trust Roy." Geraldine Ferraro was offered as a character witness, as was Harvard Law School professor Alan Dershowitz. George Steinbrenner wrote that Cohn had represented the New York Yankees "admiringly," and Allen Hayes, trainer of the crew for the yacht Courageous Challenger in its race for the America's Cup, said Cohn was the most "integral" person he'd ever dealt with in his life. New York City Council President Andrew Stein said Cohn was "an individual of high moral integrity." The developer Donald Trump testified that Cohn was a fine fellow; so did H. Jerome Berns, part-owner of the "21" Club, and J. Walter LaPrade, who was with the F.B.I. for twenty-seven years and was assistant director in charge of the Bureau's New York office for three. "Mr. Hoover and other top officials of the F.B.I. . . . all had a very high regard for Mr. Cohn," said LaPrade.

Journalists could perhaps be pardoned for their hosannas to a man who had provided them with so much good copy over the years. The affection of a proprietor of Cohn's favorite restaurant is similarly understandable. For the scions of J. Edgar Hoover to have turned their back on Cohn in his hour of need would have been an outrage to the most elementary principles of solidarity. And it is scarcely surprising that fellow lawyers rallied to Cohn's side. But of all the testimonials that Cohn mustered, it was the character references given him by members of the bench that demonstrated the full measure of his clout.

Five highly placed judges of different political backgrounds attested to his sterling character. Federal Judge David Edelstein, who served as Assistant United States Attorney under the Truman Administration and was for nine years Chief Judge of the Southern District of New York, stated that he had known Cohn for more than forty years and had been a friend of his parents. He told the panel under oath that Cohn "is a man of integrity and honesty." Judge Roger Miner, a Reagan appointee to the United States Court of Appeals for the Second Circuit who has known Cohn for thirty years, said the same thing. Judge Bernard Newman of the U.S. Customs Court, appointed to the state bench by Nelson Rockefeller and to the Federal court by Lyndon Johnson, asserted that, having been acquainted with Cohn for more than fifty years, he "respect[ed]" his views and had always found his character to be "good." More kind words came from Harold Stevens,

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William A. Reuben, the author of The Atom Spy Hoax *and* The Honorable Mr. Nixon *(both Action Books), first began writing about Roy Cohn thirty-five years ago. Alexander Cockburn's column "Beat the Devil" appears every other week in* The Nation.

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former Presiding Justice of the Appellate Division of the First Department of the State of New York. Also before the panel was a letter from Stanley Fuld, former Chief Judge of the New York State Court of Appeals and considered one of the best and most liberal judges ever to sit on the state's highest court, saying that he had "known Roy since he was a young boy" and that "in my relationship and dealings with him, I have always found him a man of his word and completely reliable . . . an exceedingly able lawyer and advocate."

Of the four charges considered by the disciplinary panel, two were relatively simple. According to one of them, Cohn used outrageous maneuvers, for a period of seventeen years, to avoid repaying a $100,000 loan from a client, and ultimately cleared the debt only after testimony had been taken on this charge before the panel, in May of 1984. The other accused him of giving false answers on a 1982 application to practice law in Washington, D.C., in which he denied that any charges or complaints had ever been made against his conduct as an attorney.

The other two charges were of richer substance. On December 8, 1971, Federal Judge Edmund Palmieri of the Southern District of New York, acting on a complaint by the Securities and Exchange Commission, issued a restraining order freezing the assets of the Pied Piper Yacht Charters Corporation and of seven of its officers, who had been indicted for securities fraud (for which all but one were convicted). The next day Roy Cohn, declaring that he was acting for all the defendants, came before Judge Palmieri and depicted in moving terms the anguish of the workers at the company, who could not get paid because of the freeze order. Palmieri accepted this plea and amended his order. The workers could get paid, but $25,000 in cash plus the two yachts owned by the corporation, the Pied Piper and the Defiance, were to be placed in an escrow account in the custody of Cohn's law firm, Saxe Bacon & Bolan. A week later the Pied Piper was sold for $94,000, but, contrary to the court's instructions, the money was not placed in an interest-bearing account against the time it could help satisfy claims by defrauded stockholders. Instead it came to repose in the noninterest-bearing checking account of Melvyn Rubin, an administrative attorney in Cohn's law firm who had no previous connection with the case.

Rubin then told the S.E.C. that he would like to exchange the $25,000 in escrowed cash for two bonds worth $12,500 each. Granted permission, he next informed the commission that for the two bonds and the $94,000 in cash from the sale he would like to substitute a brand new bond, in the generous amount of $120,000. The S.E.C. attorney in charge of the Pied Piper case readily agreed. He would no doubt have been less cooperative had he known that the new bond was entirely worthless. Nor would the S.E.C. attorney and Judge Palmieri have been encouraged by the news, of which they remained ignorant for three years, that Rubin had sent the $94,000 to Fred Coda, who was the indicted chief officer of the Pied Piper Corporation, the very person against whom the bond had initially been procured to protect corporate assets.

Meanwhile the proud yacht Defiance was contributing to the pleasure and profit of Cohn and his cronies. In May of 1971, Cohn's law firm had already had the prescience to lease the Defiance from Coda for five years in exchange for $500,000 worth of legal services. Although Judge Palmieri had ordered that there be no further hypothecation of the Defiance, Cohn was not deterred from arranging for the yacht to be remortgaged, for $85,000, doubling the insurance with Lloyd's of London to $200,000.

In May of 1973, Jerry Howard, variously described as the office manager or telephone operator at Saxe Bacon & Bolan, opened an escrow checking account. A month later the Defiance put to sea in so parlous a condition that two captains had refused to undertake the voyage. With David Vogel, a former Navy man with a police record in three states and a spell in the Federal penitentiary in Lewisburg, Pennsylvania, at the helm, the Defiance caught fire off Palm Beach, Florida, and sank in seventy-eight feet of water, only twelve hours after leaving its port. First mate Charles Martensen was killed in the blaze. The Palm Beach County sheriff's office was not entirely surprised by the disaster, since a tipster had already confided that the De-

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fiance "would be taken out and scuttled for insurance." Lloyd's was sufficiently suspicious to release only half the $200,000 in insurance money, and that sum duly found its way into the new account of Jerry Howard and from there into the accounts of Roy Cohn, Roy Cohn's law firm, Roy Cohn's friend Paul Dano, and Andrew David Associates, owned by another friend of Roy Cohn, which had issued the $85,000 mortgage.

Cohn spared the S.E.C. the pain of this maritime mishap, which the commission learned of six months later by reading an article in *Newsweek*. Thus apprised, S.E.C. attorneys asked Cohn about the marine insurance. Cohn said he knew nothing other than that the yacht had sunk. After some investigation both the S.E.C. and Judge Palmieri began to express urgent curiosity as to the whereabouts of the escrow funds—the redoubtable "equivalent bond" supposedly worth $120,000 and whatever insurance had been paid on the Defiance. Cohn conducted a gallant holding action, assuring Judge Palmieri that the insurance money "hasn't been paid, your Honor" and that "this matter could all be worked out." It was not until April of 1975 that Cohn revealed that every penny of the $219,000 his office should have been holding in escrow had dissipated. He claimed that once the S.E.C. consented to the substitution of the $120,000 equivalent bond, "from that point on this firm had absolutely nothing to do with that transaction." That was too much for Judge Palmieri, who finally in February of 1976, after conducting a hearing on the issue, expressed "surprise bordering on stupefaction" at Cohn's sworn statements and told him to come up with the $219,000 plus interest within twenty days or go to jail. The $219,000 filched by Cohn and his cohorts was replaced.

Two months earlier, while awaiting Palmieri's decision, Cohn rushed to Miami to pay a surprise visit to a comatose liquor magnate named Lewis Rosenstiel, with consequences that ultimately had as adverse an effect on his legal career as the Pied Piper affair, even though the misdeeds in the latter case stretched over five years and the visit to Rosenstiel lasted only half an hour.

Rosenstiel had fought his way to the top of the liquor business, amassing a great fortune as the founder and head of Schenley Distillers. He exhibited a paranoid streak and once, in his palmier days, summoned his subordinates to his Manhattan town house, telling them that he was at death's door. They assembled downstairs and passed the time in uncomplimentary discussion of their boss, while Rosenstiel lay upstairs eavesdropping on their unsparing comments. Finally he had a bodyguard tell them he had expired. Their jubilation rose to his ears, and he descended abruptly and discharged them.

By December 1975 Rosenstiel was in genuinely bad shape. Eighty-four years old and almost entirely paralyzed from a stroke, he was unable to sit up or feed himself without assistance. At the time of Cohn's visit he was suffering from prostate cancer, diabetes, kidney failure, uremia, advanced cortical atrophy and Alzheimer's disease, causing pre-senile dementia. His attention span was almost nonexistent; at lunchtime he couldn't remember what he had had for breakfast; he often couldn't recognize visitors, including his wife and daughter, without their being identified by a nurse or doctor; and he was unable to carry on a sensible discussion on any topic.

When Cohn arrived in Miami with his friend David Tackett on the evening of December 5, he had already taken care to establish that the tycoon's fifth wife, Blanka, had just gone on a vacation trip to South America. He knew also that Elizabeth, Rosenstiel's only living daughter, a daily visitor (and principal beneficiary of his estate), would not be at the hospital until the afternoon of the 6th, having telephoned her from New York the previous day to make sure of it.

Although Cohn later denied it, witnesses at Mount Sinai Hospital in Miami Beach testified that he appeared outside Rosenstiel's room announcing that he had come straight from the airport. Richard Zaccaro, a private attendant working the night shift, told Cohn that Rosenstiel was on the critical list. Saying that he wanted Rosenstiel to sign a paper in a matter with regard to a woman, Cohn put a piece of paper in front of the patient. But, according to Zaccaro, Rosenstiel was "completely out of it," and the best that Cohn could do was "once in a while get a moan out of him." Cohn, Zaccaro said, at one point "tried to take [Rosenstiel's] hand for him to sign it," but the effort failed because Rosenstiel "couldn't move his hand if he tried." After twenty minutes Cohn gave up and left.

He was back the next morning with Tackett. Cohn brought two legal documents with him. One of them was a procedural affidavit, dated March 25, 1974, and requiring no signature and no response, relating to a bitterly contested lawsuit involving Rosenstiel and his fourth wife, Susan. The other document was a codicil to Rosenstiel's will, which Thomas Bolan, Cohn's law partner, had typed up personally. It added the names of Roy Cohn and his clients Cathy and James Finkelstein as executors and trustees of Rosenstiel's estate. (Cathy Finkelstein is Rosenstiel's granddaughter; her father, Sidney Frank, had been married to Rosenstiel's deceased daughter.) In Rosenstiel's original will the First National Bank of Miami and Maurice Greenbaum, an estate specialist and Rosenstiel's attorney since the early 1960s, were named executors. The codicil gave Cohn and his clients a majority vote on matters relating to the administration of the vast estate. Most important, it effectively gave them control over the disposition of several pending claims, involving at least $4.4 million, brought by Sidney Frank, his son, Matthew, and his daughter, Cathy.

Cohn told the nurse on duty, Tricide Philogene, and the nursing attendant, Thomas Springer, that he had a document he wanted Rosenstiel to sign and asked them to be witnesses. Both refused, by reason of the man's condition, the hospital's policy on such matters and a directive from Rosenstiel's doctor prohibiting business transactions, which was noted on his chart. Philogene went off to fetch the hospital administrator, and Springer waited outside the room, occasionally peering through the half-opened door. What he saw was Cohn and Tackett preparing the document

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and trying to get Rosenstiel's signature. He heard Cohn telling the old man that he had a paper he would like to get signed that would terminate the affairs of "Suzie." Rosenstiel was silent, and as Springer walked away he heard Cohn and Tackett say, "We will help you, Lew, to sign." Philogene returned with hospital administrator Robert Babcock, who was informed by Cohn that he and Tackett were there on a social visit. Babcock tried to talk to Rosenstiel, but, as he later testified, "he seemed to be asleep. . . . He just—nothing. No reaction at all."

Six weeks after Cohn's visit, Rosenstiel died. Within a week Cohn filed the famous codicil, decorated with some markings that he solemnly swore were Lewis Rosenstiel's signature surrendering control of his immense fortune to Cohn and his associates. What Cohn didn't know was that Rosenstiel had placed much of the estate in a special trust for his daughter Elizabeth, and that it was thus out of reach.

In Cohn's recollection of the hospital scene the millionaire was in full command of his mental and physical faculties when he signed the codicil. That version was supported by Tackett, who lived at Cohn's New York home until his death, in 1983.

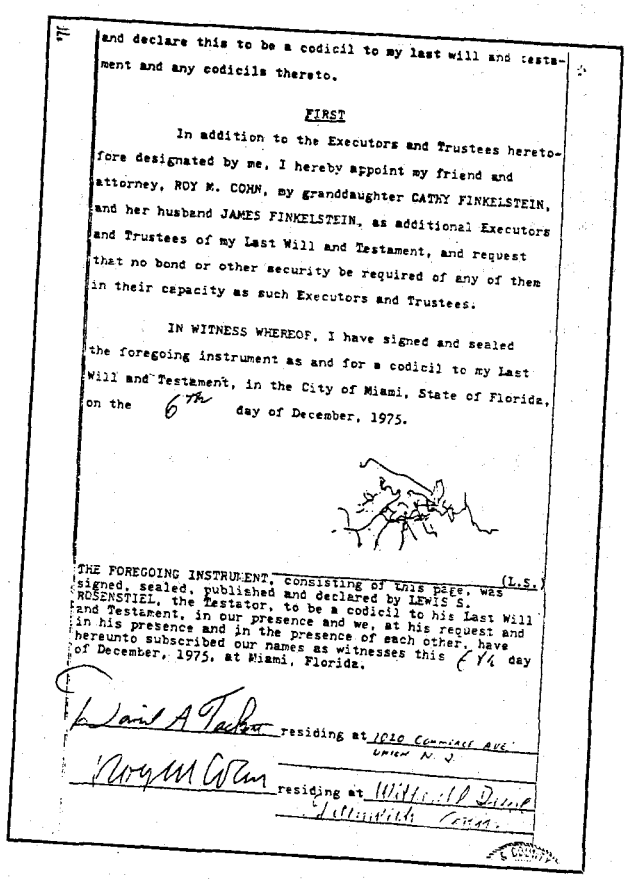
Seeming corroboration of Cohn's story was offered belatedly by Jerry Finkelstein, publisher of the *New York Law Journal* and father of Andrew Stein and James Finkelstein, publisher of *The National Law Journal*. He testified before the disciplinary committee panel that he had driven down to Miami Beach from Palm Beach on December 7, picked up Cohn and proceeded to Mount Sinai Hospital to pay a visit (his first) to Rosenstiel. Both Cohn and Rosenstiel told him, Finkelstein swore before the panel, of the execution of the codicil the previous day. All medical personnel reviewing Rosenstiel's comatose form on December 6 testified that his cabbage-like condition persisted throughout the day. His daughter, who visited that afternoon, testified that he had no memory of Cohn or of the codicil. As the staff of the disciplinary committee pointed out, members of the Finkelstein family had been named in the codicil as trustees and executors of the estate. The evidence also established that Jerry Finkelstein had been in the "21" Club on a number of occasions after the hospital visit conferring with Cohn and Sidney Frank, who happened to be the primary claimant against the Rosenstiel estate.

All Cohn's efforts were to no avail. On June 24, 1976, Judge Frank Dowling of the Dade County probate court ordered the December 6 codicil to be revoked, remarking *inter alia* that even if Rosenstiel had been fully compos mentis, it was almost beyond comprehension that he would have mutely signed the document put under his nose. As it was, Dowling found that Rosenstiel had been incapable of voluntarily signing the codicil, and that "Roy M. Cohn misrepresented . . . the nature, content and purpose of the document that he offered to Mr. Rosenstiel."

These were the "garbage-pail cases" that Cohn declared had been got together by a bunch of "yo-yos" in a political vendetta. But the last-ditch campaign he mounted, the battery of character witnesses, the cries of his powerful friends and his own agonized moans to the press from his supposed deathbed all failed to impress the five judges of the Appellate Division, who found his conduct "highly unethical"; his explanations "incomprehensible" and "incredible"; his testimony "misleading" and "untruthful," which "eroded the very integrity and competence of the legal profession." The judges concluded, "We find the evidence so compelling on each of these four charges as to leave us no recourse but to order disbarment." On July 3 the New York State Court of Appeals unanimously refused to consider Cohn's appeal.

Thirty-eight years after Roy Cohn was admitted to the New York State bar his career appears to be over. The man who stood over Rosenstiel was the man who, in the Rosenberg case, coached David Greenglass and conducted the prosecution's examination of its most crucial witness. Adjutant to Joe McCarthy in the 1950s, he tried as a last resort to use an old strategy in his hour of crisis, charging that the disbarment proceedings amounted to a leftist conspiracy against him.

It's hard, these days, to keep a bad man down. Assuming his health does not betray him, Cohn can follow the example of his friend Richard Nixon—lie low for a brief spell and then spring into self-absolving print and statesmanlike counsel on matters of public policy. The gallery of his admirers is a tolerant one. Soon the vigor of his anticommunism will be remembered, the harsh words of his judges will be forgotten, the details of his misconduct faded. And testimonials to his honesty and integrity will once again float toward the heavens. □



and declare this to be a codicil to my last will and testament and any codicils thereto.

FIRST

In addition to the Executors and Trustees heretofore designated by me, I hereby appoint my friend and attorney, ROY M. COHN, my granddaughter CATHY FINKELSTEIN, and her husband JAMES FINKELSTEIN, as additional Executors and Trustees of my Last Will and Testament, and request that no bond or other security be required of any of them in their capacity as such Executors and Trustees.

IN WITNESS WHEREOF, I have signed and sealed the foregoing instrument as and for a codicil to my Last Will and Testament, in the City of Miami, State of Florida, on the 6th day of December, 1975.

THE FOREGOING INSTRUMENT, consisting of this page, was signed, sealed, published and declared by LEWIS S. ROSENSTIEL, the Testator, to be a codicil to his Last Will and Testament, in our presence and we, at his request and in his presence and in the presence of each other, have hereunto subscribed our names as witnesses this 6th day of December, 1975, at Miami, Florida.

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BOOKS & THE ARTS.

Labor's Long Haul

DAVID MONTGOMERY

PRISONERS OF THE AMERICAN DREAM: Politics and Economy in the History of the US Working Class. *By Mike Davis. Verso. 320 pp. $24.95. Paper $10.95.*

Since the early 1960s historians writing about the American working class, and especially about its nineteenth-century experience, have devoted their attention primarily to the social and ideological sources of collective action. Researchers trying to understand how people who lacked individual access to the levers of community power mobilized to assert their common interests have scrutinized the bonds generated by everyday life at work, at home and at play, and have lavished attention on the record of workers' own spoken and written words in the hope of finding clues to the ways they understood society and wished to change it. The emphasis in the writings of Herbert Gutman, Sean Wilentz, Alice Kessler-Harris, Alfred Young and others has been on working men and women as agents of historical change.

Mike Davis dissents sharply from that approach. A veteran of civil rights, antiwar and trade union activity in the United States, and a member of the editorial collective of *New Left Review*, Davis has drawn attention to the structures of social power that have historically divided workers, frustrated their collective undertakings, limited their objectives and secured the hegemony of capital. The most important fact of U.S. history, he reminds us, is not how much workers have tried to shape history, but how little they have accomplished. They have not even produced their own reformist political party, unionized their ranks on anything approaching the level of Europe, Canada or Australia, or wrung anything but the most elementary welfare legislation from their government. Although workers in all industrialized countries ceased to represent a revolutionary challenge to capitalism, at least between the late 1940s and the late 1960s, those in Europe were incorporated into the existing order through their own "collective, self-formed institutions" which created and maintained a "corporate consciousness," while their American counterparts have remained "disorganized" and increasingly "depoliticized."

Davis traces this distinctive U.S. experience from its nineteenth-century origins to the age of Reagan. In the first two chapters, which appeared in *New Left Review* in 1980, Davis assesses the cumulative legacy of the defeats suffered by the American labor movement from the 1830s to the cold war. Racism and nativism were the decisive obstacles to "labor abolitionism" in the 1850s, "labor populism" in the 1890s and socialism in the 1910s. Davis brings to his account of each of these critical periods a keen sense of the tangible differences in living conditions enjoyed by different groups of workers, and of the links between the stratification of the working class and the functioning of the two-party system. His discussion of the Civil War, however, betrays little awareness of the role of the working class in America's most revolutionary epoch. Labor abolitionism, Davis writes, was a "stillborn crusade" preached to workers by some middle-class radicals. But the decisive moment for the wage earners' own political expression, which he neglects, came in the decade and a half after the emancipation of the slaves. During that time the struggles of blacks for citizenship and economic independence and the first nationwide effort by white wage earners to reshape the Republic in their terms collided violently with the newly established hegemony of industrial capital. Had Davis concerned himself more with what black and white workers themselves attempted in those years, rather than with what had been preached to them earlier, he might have shown his readers more clearly how racism and nativism functioned in everyday life.

Much more impressive is Davis's analysis of the last of the three great defeats. An "industrial caste system" based on race, ethnicity and skill held firm against the challenge of Debsian socialism and the unprecedented strike wave of 1909-22. As a result, business and government were not only able to roll back the tide of working-class rebellion, as they did in Western Europe, but American workers also entered the Coolidge years of prosperity bereft of unifying institutions. The legacy of those years, in turn, profoundly influenced the C.I.O. a decade later. The industrial unionists of the 1930s inherited the fire of class solidarity "lit by the Wobblies, and the Knights of Labor before them, which burned on in the small, but unbroken, cadres of revolutionary workers in unorganized mines and mills." But they also inherited the divisions among workers, the dead hand of craft unionism and "the forced marriage between the Catholic working class and the Democratic Party."

This argument is important, because although workers everywhere have suffered defeat after defeat, the consequences have not always been the same. It is necessary to analyze the ways in which American workers have been divided, as well as the political sequel to their defeats, in order to understand just what conditions and options each generation bequeathed to the next. In the case of the 1930s, Davis argues, the possibilities briefly opened up by the strikes, the class-based political action and the Communist-Socialist united front of 1935-37 were quickly foreclosed by a joint counterattack from business, the A.F.L. and middle-class voters. Browder's leadership of the Communist Party appears in this context to have been an unmitigated disaster, demobilizing socialist activity from the late 1930s through the war—a time when workers' militancy was channeled into contractual unionism on the job, while "outside the plant the working class continued to find its social identity in fragmentary ethnic and racial communities or in a colonized leisure."

Labor's fourth and for Davis its final defeat thus came in stages between 1938 and 1948. The cold war found America's union leadership purged of its left, tightly incorporated into the Democratic Party and committed to a social compact with business, which the latter never really accepted. The workers themselves were alienated, dispirited and depoliticized by the union movement's orientation, and the whites

David Montgomery is Farnam Professor of History at Yale University. His book The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865–1925 *will be published by Cambridge University Press next spring.*

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among them, at least, were incorporated without a collective voice into the "international Fordism" of the postwar decades, which coupled sustained economic growth to mass consumerism. It was this demobilization of class solidarity that decisively shifted the political center of gravity in the United States from the New Deal to the New Right.

Despite the attention that Davis's historical analysis has attracted in the academy, the larger, more original and most important portion of his book is the study of the economic and social basis of contemporary American politics. Repudiating the comforting fiction of a political pendulum swinging between liberal and conservative poles, Davis focuses on structural changes in postwar capitalism. In the 1940s and 1950s the global power of the United States rested on military pacts, alliances with Europe's Christian Democrats and soaring domestic consumption, rather than on world trade hegemony, like that of nineteenth-century England. While private capital gradually eroded the social infrastructure, government financing spawned new centers of economic power in the South and West, which were tied to family-controlled, often labor-intensive and highly speculative enterprises with powerful expansionist interests in the Mexican border region, the Caribbean and the Middle East. Older corporations exchanged their traditional "home-market niches" for globally oriented production. Their new perspective favored automation at home, imports from their own and other foreign facilities and reduction of those costs which were not directly subject to international competition, such as construction, communications, domestic transportation and health care for workers. The first assault on such costs, and on postwar ententes with unions, appeared as early as the recession of 1958-61, with its fierce strikes and its automation controversy. The decade of rank-and-file revolts which ensued produced much militancy in the workplace but no enduring political movements, nor any significant shift of wealth and control in the workers' direction of the kind that took place in Europe. Throughout the 1960s Democratic administrations expanded arms production, promoted incomes policies to restrain inflation and arbitration to contain industrial disputes, and responded to the revolt of urban blacks with civil rights legislation and transfer payments, shift-

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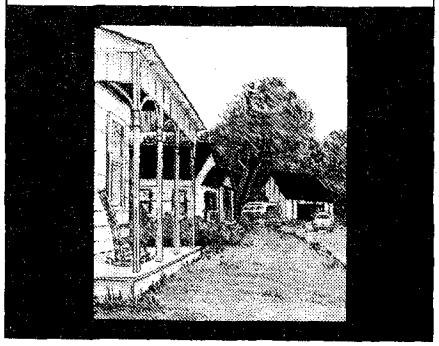

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ing incomes not between classes but from some workers to others.

By 1978 a political assault from the "revanchist middle strata" had sealed the doom of that policy. The tax revolt had mobilized white homeowners against the Great Society and frustrated the Progressive Alliance's hopes of revitalizing the New Deal coalition. A large "sub-bourgeois, *mass* layer of managers, professionals, new entrepreneurs and rentiers" cornered an ever larger share of the nation's output, generating what Davis calls a new regime of "overconsumptionism." While the new politics of the yuppies shattered the power structure of the Democratic Party, computerized direct-mail single-issue campaigns against taxation, busing, abortion and secular schooling reached deep into the ranks of the alienated working class. The result was the triumph of Reaganism—beginning, Davis reminds us, with the Congress of 1978.

By the elections of 1984 the new structures of economic power and the political alliances they produced had committed both parties to feeding the organized haves and ignoring the have-nots. They also rendered left-liberal hopes of a new populist reaction to Reagan futile. The import boom may feed nationalist reaction among workers, but it is imports of goods, energy and capital that have allowed huge budget deficits to coexist with dampened inflation and deregulation of the economy. Consequently, Davis reserves special venom for his attacks on the Democratic Socialists of America, who continue to guide popular movements into the Democratic Party and keep alive the illusion of changing America's course at the ballot box. Neither the exertions of the A.F.L.-C.I.O. for the Mondale campaign nor the Rainbow Coalition deflected the Democratic Party from its search for a place of its own in the constellation of overconsumptionist politics. It is time, Davis concludes, for the American left to abandon its hopes of "a make-believe social democracy" and to "prepare for the colder climate ahead."

With this conclusion, however, Davis's perceptive and rigorous structural analysis glides silently up to the dock of political passivity. The reader gradually realizes that the workers themselves have virtually disappeared from view. Just as Davis's history of the nineteenth century studied how workers were defeated rather than what they wanted and attempted, so his compelling analysis of late imperial America omits any assessment of the contradictions introduced into the structures of power by the ways today's workers understand and act upon them. On the contrary, Davis introduces a novel interpretation of Lenin's *What Is to Be Done?* to justify his advice to American socialists: forget the depoliticized wage-earning majority and ask anew whether "there are any subaltern strata whose class position is fused with a special oppression that transcends the limits of bourgeois political reform." Having voted no confidence in the working class, the vanguard should elect a new one!

There is much of value in Davis's scathing critique of the roles of the A.F.L.-C.I.O. and of D.S.A. in the 1984 elections, in his insistence that new structures of economic and political power preclude the possibility of a revitalized New Deal, and above all in his reminders of the pivotal role played by the struggles of blacks in shaping popular movements in the United States. Nevertheless, to suggest that socialist strategies be oriented exclusively toward "the mobilization of the radical political propensities in the Black—and, perhaps, Hispanic—working classes" is to turn the valid argument that no majoritarian opposition to the New Right is at hand into unwarranted contempt for the damage inflicted by the policies of the New Right on the everyday aspirations of a majority of Americans. That subtle transformation is especially evident in the short shrift which this book accords feminist struggles. Its policy implications would leave the black and Hispanic working class in splendid isolation. I closed *Prisoners of the American Dream* richly informed about Reagan's America, but wondering whether the task of socialists is to find some subaltern stratum to catapult them to power, or to provide programmatic coherence and political efficacy for working people's desires. What role are the prisoners to play in their own liberation? □

Crackers & Flakes

MICHAEL S. KIMMEL

FIT FOR AMERICA: Health, Fitness, Sport and American Society. *By Harvey Green. Pantheon. 367 pp. $24.95.*

A sign in the window of my neighborhood natural-food store heralds a "revolutionary breakthrough" that will, the store owner hopes, become a staple of my healthful diet. This month all that stands between me and perfect health is a chalky green powder; last month it was a viscous brown paste. Some products promise to break everything down; others swear to bind it all together. Maybe all that these products reveal is how preoccupied we are with our health and how confused and gullible we can be in quest of it. But even by today's standards, many of yesterday's health and fitness gurus look like zealous cranks or greedy bunco artists. In *Fit for America*, cultural historian Harvey Green offers us a remarkable array of nineteenth- and twentieth-century purveyors of physical fitness and perfection. Take Russell Trall, the founder of the New York Hydropathic and Physiological School, who proclaimed the virtues of hydropathy—the famed "water cure," which involved steam-induced sweats or plunges into ice water, or both—and whose staff boasted a professor of medical gymnastics. Or cleanliness freak Robert Edis, who railed against wallpaper, draperies, carpets and European furniture—all favorite hide-outs for impurities. Or Horace Fletcher, the "high priest of chewing," who reasoned that "by chewing food so thoroughly that all flavor was extracted and the remains involuntarily swallowed, people would eat less, digest their food more easily, and more efficiently use the food they ate."

Perhaps the most fascinating of these health nuts is Bernard McFadden, a turn-of-the-century critic of the medical profession. McFadden promoted a political vision of physical autonomy and a program he called Kinesitherapy, which could produce "absolute purity of the blood through a regimen of exercise, fresh air, bland diet, and no medicines." So far, so good for this "new age" pioneer. By

Michael S. Kimmel, a sociologist at Rutgers University, is writing a history of men's responses to feminism in nineteenth- and twentieth-century America.

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1914 he'd founded the International Healthatorium, which boasted training courses for doctors of physcultopathy and professors of brain breathing, and he was vigorously promoting his own breakfast cereal, Strengthro. McFadden was also the proud inventor of the "peniscope," a cylindrical glass tube with a rubber hose on one end that was attached to a vacuum pump, designed to enlarge the male organ.

Green's history does include several legitimate health reformers such as Catharine Beecher, who praised the value of moderation and shunned alcohol, opium, tea and coffee in her drive for moral probity, and William Blaikie, whose views in *How to Get Strong and How to Stay So* were a big hit in 1879. Green does not neglect those lucky few whose fame has lasted thanks to health innovations with brand-name recognition. Sylvester Graham, J.H. Kellogg and C.W. Post are an interesting trinity who, together with McFadden, help suggest the contradictory impulses that fueled the drive for health reform.

Graham, a bilious grump, proclaimed the virtues of unrefined flour and vegetarianism in antebellum America, much to the bemusement of the populace. "What can surpass that which finds long life in starvation, sees moral reform in bran and cabbage, and promises to revolutionize the world with johnny-cake and boiled beans?" asked the *Boston Courier* in 1838. What, indeed? In 1901 Post promoted Grape Nuts as brain food for the burgeoning white-collar class, because "brain workers must have different food than day laborers." And Kellogg designed healthy breakfast cereals as a small part of a regimen designed to purge us of original sin by draining the body of sexual impulses. Green minimizes the sexual dread that fueled Kellogg's fitness campaign, but let's not ignore his nondietary cures for masturbation, which included adolescent circumcision without anesthesia, suturing a boy's foreskin and applying a tincture of carbolic acid to the clitoris of the offending pubescent girl. Hardly Corn Flakes.

As captivating as a simple narrative account of such characters might prove, Green has a larger theoretical agenda. He argues that the drive for moral regeneration and spiritual renewal and the insistence on the individual's "moral responsibility for physical salvation and perfectionism" were part

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of a broad, and often contradictory, social and intellectual critique of American culture—an antimodernist antipathy to the economic, political and social changes wrought by the triumph of consumer capitalism.

Green divides the cultural history of American health reform into three somewhat arbitrary eras. In the first, 1830-60, a growing Puritan sensibility was fearful of physical overstimulation and, inspired by a "less is more" philosophy (which also promoted the capital reinvestment required to sustain economic development), sought to drain the body through bleeding, blistering or purgative minerals. In 1854 Catharine Beecher observed that "more sickness and death [were] caused by excess in the *quantity* taken than by the violation of any other law of health."

Postbellum America (1860-90) was preoccupied with the health hazards of rapid industrialization and reformers extolled the tonic freshness of country air to counter the "perils of urban life." Behind this healthy agenda lurked the bourgeois terror of loss—loss of control in the Foucaultian sense, and loss also of energy as a result of sex, bad habits and sedentary work. Neurasthenia, which Green describes as the paradigmatic pathology of the last century—"as much an ideology as an illness"—was linked by neurologist George Beard to the enervation of a nation that had replaced field labor with brain work. The appearance of sports clubs, the popularity of therapeutic manual labor and the attempt to "remasculinize" religion through "Muscular Christianity" were all also part of a male reaction to what was perceived as a "feminization" of American culture. "Spectatoritis," wrote Ernest Thompson Seton, was turning American boys into "a lot of flat chested cigarette smokers with shaky nerves and doubtful vitality." (He founded the Boy Scouts of America in 1910 in an effort to turn the tide.)

By the century's end, this fear of social impotence was buttressed by theoreticians of "race suicide" who chastised the white middle class for abandoning childrearing to the hordes of unwashed immigrants and ex-slaves who were streaming into Northern cities. Keeping fit in Green's third period, 1890–1940, became more than a hobby; it was a moral and political responsibility. The "entrepreneurs of muscle culture" promoted fads such as barbells and bicycles through the new medium of advertising. By 1900, the craving for health foods had reached a peak. One firm published a price list of sixty-three imported and forty-two domestic bottled waters, complete with the geographic source of each and a brief note alerting purchasers to their medicinal uses.

If Green's tour of the nineteenth-century Gary Nulls and Adele Davises is amusing, it is also depressingly familiar, a tragic tale of isolation and futility. To assert, as health reformers have for two centuries, that the individual is "always solely responsible for his or her own condition," is invariably to blame the victim. These bizarre efforts at individual perfection become especially popular when social and political strategies for attaining some sort of community with our neighbors, intimacy with our families and friends and personal autonomy have been abandoned. To view the body as a perfectible and autonomous machine can't compensate for the increasing control machines exert over us. The struggle for individual perfection pales in comparison with the collective struggle for social betterment that is abandoned in the process. That Green is able to raise such important contemporary questions in the course of his narrative merely suggests how fine a work of cultural history *Fit for America* is. □

ART.

ARTHUR C. DANTO

Diego Rivera: A Retrospective

The expression routinely used these days to designate public art—"art in public spaces"—implies that there is nothing especially public about the art in question, apart from the external circumstance of its placement. So, on occasion, a given bit of statuary, whose natural habitat is the museum, is sent into the field to elevate and enhance public consciousness. But when public consciousness proves inhospitable to the aesthetic missionary, it is rotated back to the museum, where it can be appreciated for the very values and virtues the graceless public responded to with hostility. The aesthetician Dale Jameson once described to me the peregrinations of a Red Grooms piece. Initially commissioned for a condominium complex in Denver, Colorado, where an Original Work of Art would be among the expected luxuries, together with the Olympic-size swimming pool, the squash court, the sauna and the jogging path, what Grooms fabricated was something finally too rowdy for yuppie taste—which really wants something reassuringly portentous and decoratively bland, like the lobby embellishments in Gateway Plaza. Thinking it was, after all, the Far West, he sent a cowboy and Indian locked in combat, the air between them dense with funky arrows and comical bullets. No doubt the possibility of tax write-offs recommended transferring the work to the University of Denver, where one would have thought it exactly suited to undergraduate sensibilities. Instead it offended, since it was perceived as disparaging to Native Americans. But matters of offensiveness simply do not arise in the museum, where being a work of art neutralizes any moral attributes a piece gathers in its public transits, and one can imagine mommies and daddies hushing their offsprings' inappropriate exclamations before Grooms's work, which, in the Denver Art Museum, will be vested with the sacredness that is its ontological due—beyond good and evil.

It is almost certainly because the artwork is supposed to carry its sacral immunities into public space that murmurs of "Philistine" are heard when the public insists that other priorities trump those of artistic edification. So it is not surprising that when public art meant something profoundly more political than it does now—when art was in public spaces not to transform the public into aesthetes but to express and validate its social aspirations—the aura of sacrilege attached to treating art badly could be cleverly utilized by artistic guerrillas like Diego Rivera. It is widely appreciated that one of the most powerful weapons the guerrilla possesses is the moral self-image of the immeasurably more powerful enemy. The terrorist would be powerless, for instance, if the attacked nation were indifferent to the fate of hostages, or if the possibility of execution were regarded as a moral opportunity by travelers who ventured abroad in the hope of being martyrized. Hunger strikes would be counterproductive if the public found starvation a form of entertainment and giggled at emaciation. Rivera imagined that no one, least of all a Rockefeller, would treat an artwork with anything but devout restraint and used this belief as a shield to carry the class struggle behind

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the lines, as it were, into the RCA building at Rockefeller Center. In a mural that bore a title that defines the period in which it was undertaken—"Man at the Crossroads Looking with Hope and High Vision to the Choosing of a New and Better Future"—Rivera placed an unmistakable portrait of Lenin to Man's left.

Now, Rivera put the portraits of actual persons everywhere in his murals—Edsel Ford, Charlie Chaplin, Cantinflas, Jean Harlow, his wife Frida Kahlo and often himself—but this was always done in the spirit of metaphor: Ford as Donor, Cantinflas as Saint, Rivera as Worker, Harlow as Ministering Angel, Kahlo as Victory or the Spirit of Fertility. But Lenin's mug, like the American flag, is too potent an image to be transfigured, or is already so powerful a metaphoric presence that any further effort at metaphorization must fail. That the same universally recognized features that dominated Red Square or May Day demonstrations the world round could be rendered innocuous when placed in a work of art, over the bank of elevators in a building explicitly intended to stimulate the recovery of capitalism—"because it was art!"—was hardly something even an art lover like Nelson Rockefeller would have been prepared to accept. Just as there are certain words whose very appearance in a text transforms it into obscenity, there are images that eat through art and turn it into weaponry. It was exactly such images that public artists of Rivera's period sought, and in ordering that Rivera's mural be chiseled off the wall, Rockefeller demonstrated that he took the art seriously, and on its own terms, and treated it with the respect with which a soldier treats another soldier when he shoots him through the head, despite the camouflage of the priest's costume. *À la guerre comme à la guerre!*

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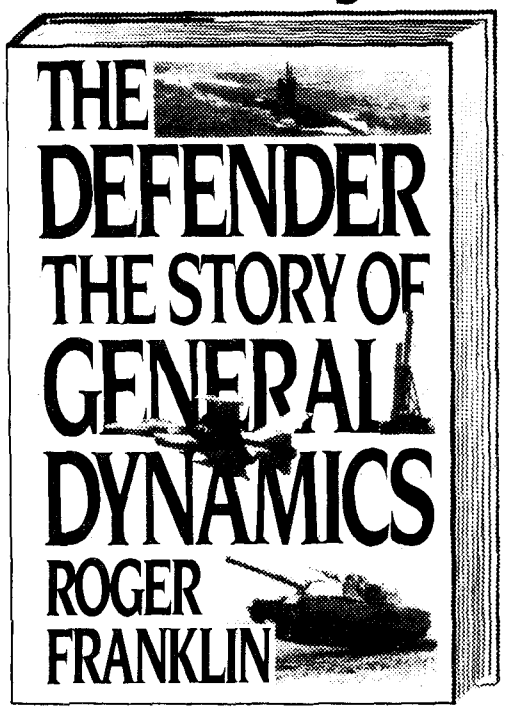

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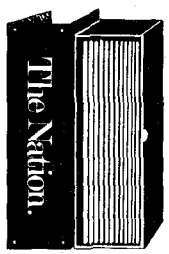

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with air to become calcium carbonate. Impervious to water, as indifferent to light as tiles, physically one with its surface, the fresco lasts as long as the wall, and under ideal circumstances should retain its freshness forever. (Of course, smoke from candles and oil lamps, the depredations of graffitists and hooligans, may interpose a screen of decay between the viewer and the fresco.) Rivera could have chiseled out Lenin's portrait. He did not hesitate to alter his Mexican murals when it suited him, for example, removing the phrase "God does not exist" from his mural at the Hotel de Prado some months before his death on November 24, 1957. Nor do I know what reasons he gave Rockefeller for not doing so—after all, the portrait might have saved the building when revolutionary hordes swept up Sixth Avenue, intent on hanging capitalists from Paul Manship's Prometheus Fountain by the skating rink. But he preferred to leave the excision to his antagonist, allowing him to be the barbarian—and Rockefeller responded with characteristic overkill, chipping off the whole thing, 100 square meters in all.

For his next New York commission, Rivera prudently used the portable mural format—plaster over cement in steel frames—which he had invented in response to a commission from the Museum of Modern Art, for his exhibition in 1931. And the portable murals—from MoMA and from the New Workers School on East 14th Street, which he painted in 1933, after Rockefeller discharged him—found their way into private collections and onto museum walls. These murals are somewhat inconsistent with the intentions of a public art advanced by the great revolutionary Mexican muralist movement Rivera joined in 1922, and which he dominated to its end. The portable mural is, in fact, simply an unwieldy easel painting, and it was precisely the easel painting that was anathema to the Mexican muralists: "We repudiate," their manifesto had proclaimed, "the so-called easel painting and all the art of ultra-intellectual circles, because it is aristocratic and we glorify the expression of Monumental Art because it is a public possession."

In subscribing to this credo at almost the exact middle of the road of his life, Rivera in effect repudiated his career up to that point, for his art until then had been precisely ultra-intellectual and aristocratic. In the beautifully installed centennial exhibition of his work at the Philadelphia Museum of Art (until August 10), one can trace his wandering through the wilderness of Cubist experimentation. Had he not been summoned back to Mexico, after his protracted *Wanderjähre* in Europe, to participate in the great program of public art sponsored by the visionary minister of culture José Vasconcelos, Rivera would have had a place, but perhaps not an especially important place, in the history of twentieth-century art—a B to B-plus Cubist, of about the rank of De la Fesnaye. Perhaps by 1922 he was already looking for a way to stop being a Cubist, and muralism gave him that. Rivera's place in twentieth-century art is still a problem, but that is because it is difficult for us to come to terms with the mission of public art to which he so colossally and ambiguously contributed. The history of world art since 1945 has been pretty much the history of American art, centered in New York, where the great New York School shifted the direction of artistic expression decisively away from public concerns. The New York painters were absorbed, instead, with abstract questions of the nature of art and concrete questions of personal expression, and at least one major critic, Harold Rosenberg, connected these two preoccupations in a single powerful theory: that painting is the act of painting and that action is personal expression.

But the personal is the political, as feminists often say, and seeing the public works of Rivera through the lens of a revolution in the concept of art to which he did not contribute, makes me appreciate the degree to which the personal preoccupations of the New York painters must have been a form of political reaction against what one might term *public* politics—the politics which, whether in Mexico or Germany or Italy, or in the Soviet Union and among its satellites, found its artistic expression in heavily muscled members of the heroicized class—or race—resisting some suitably allegorized embodiment of evil. (Or in depicting selectively swollen women sacrificing the emblemata of their fertility to the fatherland, the master race, the working class, the agency of the bright future of an exalted humanity.) These severe groupings—the worker, the soldier, the athlete, the mother—look more and more like moral cartoons, and it is easy to sympathize with those who responded at last to those forms and that function of public political art with a kind of nausea and turned away from public celebration. And since our attitude toward art today, though its roots stretch back to ancient formulations, was formed in that period when American artists, and especially New York artists, took up the philosophical tasks that have defined the modern movement since its inception, it is hardly a matter for wonder that when we think of public art, we think of art in public spaces, where the intended effect is the transformation of the public into an extended museum audience, with the stance and values appropriate to that order of appreciation.

But nothing of the sort was intended by the public artists of the 1920s and 1930s, who had turned their backs on "ultra-intellectual" aesthetics and sought instead to give artistic embodiment to the general will. As an experiment, spend a while hanging out in the Equitable Building's atrium lobby, where Thomas Hart Benton's mural cycle, "America Today," is flattened out against the marble walls like a zebra hide fresh from the taxidermist—and eavesdrop on the comments. The sophisticated visitors invariably talk about the Art Deco moldings Benton used to solve the problem of partitioning spaces. The less sophisticated comment on the dated costumes and quaint machinery. The least sophisticated speculate on whether someone has his hand up the girl's skirt. But Benton had undertaken, in "America Today," to magically connect the viewer with the continent, which, from the board room of the New School for Social Research

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where it was originally installed, opened up in every direction, so that sitting in that room one was *part* of America rather than the viewer of a series of paintings with some modern touches and *style-trente* figurations. Benton's work was not generated by the principles of museum installation but was a stimulant to patriotic identification. The Equitable lobby is a museum annex (it contains two galleries on furlough from the Whitney), in which Benton's work is reduced to an aesthetic artifact, a disjunction of tableaux which we address from without rather than participate in from within—a trophy brought back to symbolize the cultural goodness of the corporation.

Although I cannot speculate at length here, the corporation's impulse to proclaim its cultural goodness through the acquisition and public display of art cannot be terribly remote from the Mexican government's impulse to proclaim the goodness of its revolutionary aims through the commissioning of art. One must suppose that it was to have been a matter of spontaneous popular pride that the Mexican people could behold, on vast walls and in open spaces, the epic of themselves in an art that belonged to them—that the prerogatives of wealth and cultivation that art has always connoted were being exercised by a people through its artists. What is something of a miracle is that there should have been great artists capable of responding to the imperatives of a public art so conceived. The huge and powerful images, which went up on wall after wall, in public building after public building, were meant to celebrate the donors who were also its subjects, to teach them their past and paint their future. The peon could point to those paintings and say that he was them. Of course such an art had to be recognizable and idealized, and though Rivera drew upon what he had learned in France and Spain and Italy in order to organize his immense panoramas, it was a condition of their being public art that they be directly accessible at some basic level to the artistically illiterate and the historically ignorant.

In truth, Rivera's mural programs are iconographically complex. The Philadelphia Museum's show originated at the Detroit Institute of Arts, which houses Rivera's masterpiece, the stupendous "Detroit Industry," which Rivera painted in the Garden Court of the museum. I was taken there as a child, my mother feeling it important that I see the great master at work, and I cannot count the times when, at various stages of my youth, I stood before those walls and tried to puzzle out their meanings, some of which are extremely abstruse and require archaeological information, even if, on a certain level it is obvious enough what is going on. The north and south walls depict the automobile industry, which almost everyone in Detroit was involved with in one way or another. Rivera painted in a group of tourists: a trip to the plant at River Rouge was a standard schoolchild excursion in the 1930s.

It was on the occasion of discovering a roll of large cartoons Rivera had given the museum that it was decided to plan an exhibition to mark the centenary year of his birth. Some of these are to be seen in Philadelphia—a characteristic "Figure Representing the Black Race" will give you some idea of the scale and form of the figures in the upper register of the Detroit murals—but the Philadelphia show, in concession to necessity, cannot give you more of the public artist than, perhaps, the few portable murals installed there may afford. This is not a crushing difficulty. The show sensibly stresses the private Rivera and places his life at the center. It unfolds as you progress, from some early prodigy drawings until the final, moving last painting, which is of watermelons—a tableful of gargantuan fruits as a *nature morte* for a dying giant—through all the stages of a life that can no longer be lived.

The lives of the artists, as Vasari knew, tell us a lot about the meaning of art, different lives going with different arts. If someone were to juxtapose the life of Andy Warhol with the life of Diego Rivera, no better key to the art history of our century could be found. Rivera's life is as inaccessible to artists today as the life of a knight was to Don Quixote, and it is not to Rivera's discredit that we cannot assimilate him to our aesthetic. Wandering through the wonderful exhibition, I was reminded of something John Maynard Keynes wrote about the geometrical proofs Isaac Newton used in the *Principia*. They were, Keynes thought, like great and ancient weapons in some museum, and he marveled that men could fight with what he could barely lift. Rivera is not for our times, but for just that reason it is important that we look at him intensely. It tells us as much about ourselves as about him that he is not. □

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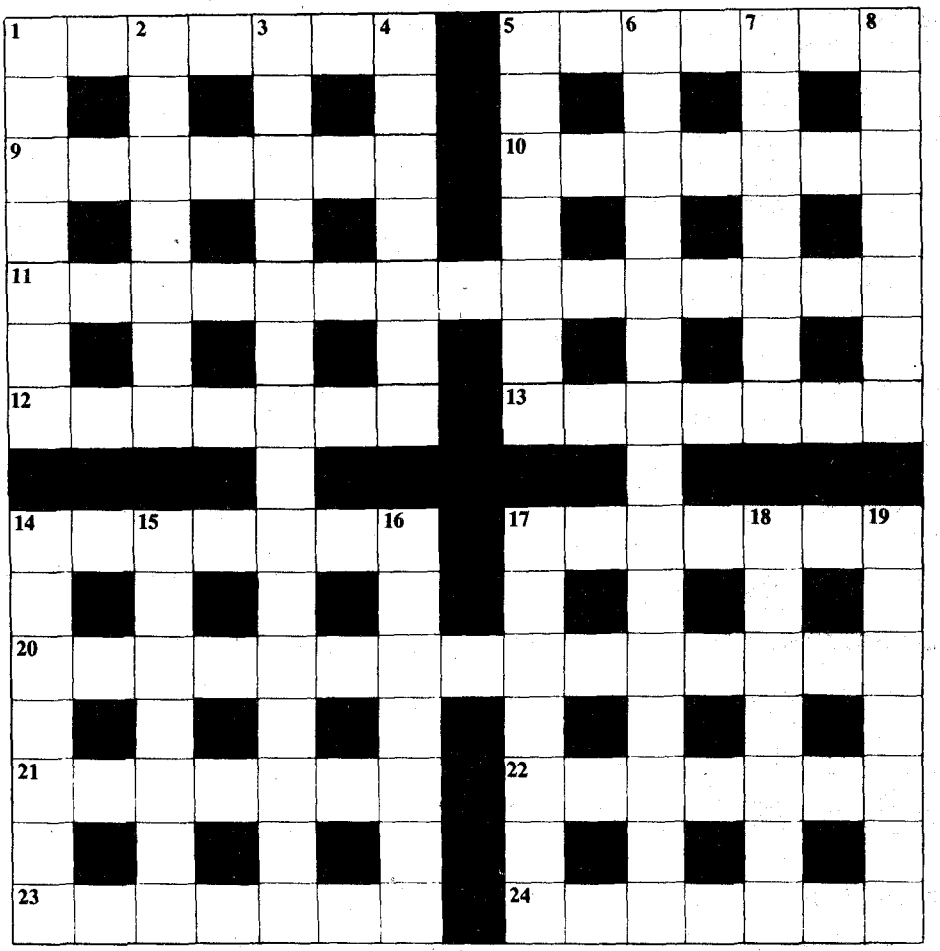
R	■	I	■	I	■	R	■	I	■	C	■	N	■	H
O	B	L	I	G	E	D	■	D	I	O	C	E	S	E
M	■	W	■	H	■	U	■	I	■	N	■	S	■	F
L	I	E	D	■	C	O	R	N	U	C	O	P	I	A
E	■	L	■	R	■	U	■	G	■	O	■	O	■	E
F	I	L	L	I	E	S	■	S	P	U	T	T	E	R
T	■	■	■	G	■	■	■	■	■	R	■	■	■	I
T	R	A	C	H	E	A	■	C	A	S	C	A	D	E
O	■	C	■	T	■	N	■	L	■	E	■	R	■	Q
R	E	C	R	E	A	T	I	O	N	■	Y	A	L	U
I	■	U	■	O	■	W	■	S	■	K	■	P	■	E
G	E	S	T	U	R	E	■	E	L	E	V	A	T	E
H	■	E	■	S	■	R	■	I	■	Y	■	H	■	N
T	U	R	N	■	U	P	O	N	E	S	N	O	S	E

LOCAL ONE GRAPHICS X-523

Crossword Puzzle No. 2111

FRANK W. LEWIS



ACROSS

1 and 5 Certainly not one of the fruits of harmony, destined for the fairest. (5,2,7)
9 If it were reversed, the result might be descriptive of one of the arts, or you might find such an arrangement for a couple. (7)
10 One might find liners on it, or else Alan eventually shows up with it. (3,4)
11 Set off to cause trouble, perhaps. (9,6)
12 Are people left in stitches by them? (7)
13 Perhaps held by drinkers to be brown—sort of dark. (7)
14 Ask a new organization what a rouser does! (7)
17 A couple of hours before noon, one might have an association with the nursery—though one is not necessarily a gentleman. (7)
20 Might it lead to a mistrial? (Solomon reputedly never made such a mistake.) (5,2,8)
21 Proving old tape can be reprocessed—but it might jump later on. (7)
22 When it comes to taxes, this is illegal—and so naïve, perhaps! (7)
23 Makes a secret discoverable? (7)
24 As pot-boilers, they were weird! (7)

DOWN

1 A smile's obviously caused by such behavior, but not on purpose. (7)
2 An animal seen in a portion of the "platform for the defense"? (7)
3 Sometimes said to be envious, the implication being corrosive to the core. (3,4,5,3)
4 In Italy the flies around it might be due to horses. (7)
5 Braided up, possibly—as a last course. (7)
6 Cheat? It takes very little change to sneak in—with the pot, as one might say. (5,2,3,5)
7 Nothing is put on an automobile in a form one can play on. (7)
8 Young pool players might be discouraged from going in at this. (That's the thing the thoughtless might be said to be off.) (4,3)
14 It's a short month, but the C.I.A. is wrong about it—clean wrong! (7)
15 To make a long story short, this might be a Golden Gate example. (7)
16 Puts up with some sort of fuss when the little arbiter comes up in it. (7)
17 Possibly the flying type use cars, strangely enough! (7)
18 The South, as one might say? (It should be all calm now.) (3,4)
19 What one sees might be measured with them—as can tattered rags around it. (7)

PUZZLED?

No more cross words. If you don't see why "Lures" are "Ground Rules," send for those of Mr. Lewis to *The Nation*, 72 Fifth Avenue, New York, NY 10011.

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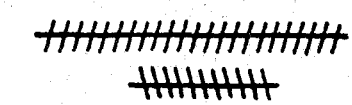
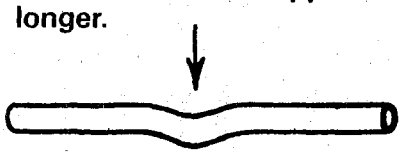


Note how one line appears longer.



Note how the pipe appears bent under the arrow.

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